State of Iowa

1993

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted At The

1993 REGULAR SESSION

Of The

Seventy-Fifth General Assembly

Of The

State Of Iowa

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

REGULAR SESSION BEGUN ON THE ELEVENTH DAY OF JANUARY
AND ENDED ON THE SECOND DAY OF MAY, A.D. 1993

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by the
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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 1993 Regular Session of the Seventy-fifth 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 SUPPLEMENT IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1993 Iowa Code Supplement.

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

Effective dates. The Acts took effect on July 1, 1993, 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.

State mandates. Iowa Code section 25B.5 requires that for each enacted bill or joint resolution containing a state mandate (defined in section 25B.3), an estimate of additional local revenue expenditures required by the mandate must be filed with the Secretary of State. Section 2B.10(7) states that a notation of the filing of the estimate must be included in the session laws with the text of the bill or resolution. An asterisk has been placed at the beginning of the enacting clause and a footnote included for each enrolled Act which requires the estimate.

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

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

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ELECTIVE OFFICERS

Name and Office	County from which originally chosen

GOVERNOR

TERRY E. BRANSTAD	Winnebago
David M. Roederer, Executive Assistant	Polk

LIEUTENANT GOVERNOR

JOY CORNING	Black Hawk
Carol 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
Warren G. Jenkins, Deputy Auditor of State	Polk
Richard C. Fish, Deputy, Administration Division	Polk
Kasey K. Kiplinger, Deputy, Audit Division	Polk

TREASURER OF STATE

MICHAEL L. FITZGERALD	Polk
Lawrence D. Thornton, Deputy Treasurer	Polk
Steven F. Miller, Deputy Treasurer	Polk
Stefanie G. Devin, Assistant Deputy Treasurer	Polk

SECRETARY OF AGRICULTURE

DALE M. COCHRAN	Webster
Shirley Danskin-White, Deputy Secretary	Polk
David Werning, Administrative Division Director	Warren
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
Steve Pedersen, Agriculture Marketing Bureau Chief	Polk

ATTORNEY GENERAL

BONNIE J. CAMPBELL	Polk
Charles J. Krogmeier, Executive Deputy Attorney General	Story
Gordon Allen, Deputy Attorney General	Polk
Elizabeth Osenbaugh, Deputy Attorney General	Lucas
Roxann Ryan, Deputy Attorney General	Howard

GENERAL ASSEMBLY

SENATORS

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Banks, Brad Westfield	Farmer	2nd—*Plymouth*, Woodbury	73, 74, 74X, 74XX
Bartz, Merlin E. Grafton	Farmer/Laborer	10th—Cerro Gordo, Mitchell, *Worth*	74, 74X, 74XX
Bennett, Wayne D. Ida Grove	Farmer	6th—Crawford, *Ida*, Monona, Sac, Woodbury	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Deluhery, Patrick J. Davenport	Insurance Sales Representative/ College Teacher	22nd—*Scott*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Drake, Richard F. Muscatine	General Farming	24th—Johnson, Louisa, *Muscatine*, Scott	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Fink, Bill Carlisle	School Teacher	45th—Marion, *Warren*	None
Fraise, Eugene S. Fort Madison	Farmer/ Legislator	50th—Des Moines, *Lee*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX
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Name and Residence	Occupation	Senatorial District	Former Legislative Service
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Judge, Patty Albia	Mediator	46th—Appanoose, Clarke, Davis, Lucas, *Monroe*, Van Buren, Wayne	None
Kersten, James B. Fort Dodge	Financial Investment Officer, First American State Bank	7th—Boone, Calhoun, Hamilton, *Webster*	74, 74X, 74XX
Kibbie, John P. Emmetsburg	Farmer	4th—Clay, Dickinson, Emmet, Kossuth, *Palo Alto*	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX
Kramer, Mary E. West Des Moines	Vice President- Human Resources, Blue Cross & Blue Shield	37th—*Polk*	74, 74X, 74XX
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Maddox, O. Gene Clive	Attorney	38th—Dallas, *Polk*	None
McKean, Andy Anamosa	Lawyer	28th—*Jones*, Linn	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
McLaren, Derryl Farragut	Farmer	43rd—Cass, *Fremont*, Mills, Montgomery, Pottawattamie	74, 74X, 74XX
Murphy, Larry Oelwein	Adjunct College Instructor, Upper Iowa University	14th—Black Hawk, Buchanan, Delaware, *Fayette*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Palmer, William D. Des Moines	Sales/Insurance	33rd—*Polk*	61, 62, 63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Name and Residence	Occupation	Senatorial District	Former Legislative Service
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Sturgeon, Al ..... Sioux City	Legislator/ ..... Lawyer	1st—*Woodbury*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Varn, Richard J..... Solon	Executive Director, Eastern Iowa Construction Alliance/ Lawyer	25th—*Johnson*, Linn	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Vilsack, Tom ..... Mt. Pleasant	Lawyer	49th—Des Moines, ... *Henry*, Lee, Washington	None
Welsh, Joe J..... Dubuque	Businessman	17th—Delaware, ... *Dubuque*, Jackson	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Zieman, Lyle E. ..... Postville	Retired Farmer....	16th—*Allamakee*, Clayton,.. Fayette, Winneshiek	None

REPRESENTATIVES

Name and Residence	Occupation	Representative District	Former Legislative Service
Arnould, Robert C. ..... Davenport	Legislator.....	44th—*Scott*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Baker, Thomas E..... Des Moines	Advisory College ..	71st—*Polk*	74, 74X, 74XX
Beaman, Jack ..... Osceola	Self-employed	91st—Appanoose, *Clarke*,... Lucas, Wayne	72, 72X, 72XX, 73, 74, 74X, 74XX
Beatty, Linda L..... Indianola	Homemaker	89th—*Warren*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Bell, Paul A. ..... Newton	Police Officer.....	57th—*Jasper*	None
Bernau, Bill ..... Ames	Legislator/ ..... Consultant	62nd—*Story*	74, 74X, 74XX
Black, Dennis H..... Grinnell	Conservationist....	58th—*Jasper*, Mahaska,..... Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Blodgett, Gary ..... Mason City	Retired ..... Orthodontist	19th—*Cerro Gordo*	None
Boddicker, Dan ..... Tipton	Engineering ..... Technician	39th—*Cedar*, Clinton,..... Jones	None
Brammer, Philip E. ..... Cedar Rapids	Legislator/ ..... Salesman	53rd—*Linn*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Brand, William J..... Vinton	Human Services ... Worker	60th—*Benton*, ... Black Hawk, Tama	73, 74, 74X, 74XX
Branstad, Clifford O..... Thompson	Retired Farmer....	16th—Hancock, ... *Winnebago*, Wright	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Brauns, Barry ..... Conesville	Manager- ..... County Fair	47th—Johnson, Louisa, ... *Muscatine*	None
Brunkhorst, Bob ..... Waverly	Computer ..... Programmer	22nd—Black Hawk, ... *Bremer*	None
Burke, Gordon B..... Marshalltown	Lennox-Tool & .... Die Maker	64th—*Marshall*	74, 74X, 74XX
Carpenter, Dorothy ..... West Des Moines	Legislator.....	74th—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Cataldo, Michael..... Des Moines	VP-Ia EPS..... Products, Inc.	68th—*Polk*	None
Churchill, Steven W..... Johnston	Development ..... Officer	76th—Dallas, *Polk*	None
Cohoon, Dennis M..... Burlington	Teacher.....	100th—*Des Moines*.....	72, 72X, 72XX, 73, 74, 74X, 74XX
Connors, John H..... Des Moines	Labor ..... Arbitrator	69th—*Polk*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Daggett, Horace ..... Creston	Retired Farmer/ ... Legislator	88th—Decatur, Ringgold, ... Taylor, *Union*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Dickinson, Rick ..... Sabula	National ..... Accounts Mgr.	34th—Dubuque, ... *Jackson*	74, 74X, 74XX
Dinkla, Dwight L..... Guthrie Center	Attorney.....	78th—Adair, *Guthrie*, ... Madison	None
Doderer, Minnette ..... Iowa City	Consultant	45th—*Johnson*	60X, 61, 62, 63, 64, 65, 66, 67, 67X, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Drake, Jack ..... Lewis	Farmer	81st—Audubon, ... *Pottawattamie*, Shelby	None
Dvorsky, Robert E. ..... Coralville	Job Placement..... Official	49th—*Johnson*	72, 72X, 72XX, 73, 74, 74X, 74XX
Eddie, Russell ..... Storm Lake	Self-employed	10th—*Buena Vista*,..... Clay, Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX
Ertl, Joseph L. ..... Dyersville	Owner-Scale ..... Models	33rd—Delaware, ... *Dubuque*	None
Fallon, Ed ..... Des Moines	Farmer/..... Musician	70th—*Polk*	None
Fogarty, Daniel P. ..... Cylinder	Farmer	8th—Clay, Kossuth, ... *Palo Alto*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Garman, Teresa ..... Ames	Real Estate ..... Sales/Farmer	63rd—Marshall, *Story*	72, 72X, 72XX, 73, 74, 74X, 74XX
Gill, Patrick F. ..... Sioux City	Carpenter.....	2nd—*Woodbury*	74, 74X, 74XX
Gipp, Chuck..... Decorah	Dairy Farmer	31st—Allamakee, ... *Winneshiek*	74, 74X, 74XX
Greig, John M. ..... Estherville	Farmer	7th—Dickinson, *Emmet*, ... Palo Alto	None
Greiner, Sandra H. ..... Keota	Farmer	96th—Keokuk, Mahaska,.... Wapello, *Washington*	None
Gries, Don ..... Charter Oak	Retired School .... Administrator	12th—*Crawford*, Monona, ... Woodbury	None
Grubbs, Steven E. ..... Davenport	Law Student	40th—*Scott*	74, 74X, 74XX
Grundberg, Betty..... Des Moines	Property..... Renovation/ Management	73rd—*Polk*	None
Hahn, James F..... Muscatine	Property..... Management/ Real Estate Salesman	48th—*Muscatine*, Scott	74, 74X, 74XX
Halvorson, Rod ..... Fort Dodge	Real Estate	13th—*Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Halvorson, Roger A. ..... Monona	Insurance &..... Real Estate Broker	32nd—Allamakee, ... *Clayton*, Fayette	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX

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Hammond, Johnie Ames	Consultant	61st—*Story*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Hansen, Steven D. Sioux City	Self-employed	1st—*Woodbury*	72, 72X, 72XX, 73, 74, 74X, 74XX
Hanson, Darrell R. Manchester	University Instructor	27th—Black Hawk, Buchanan, *Delaware*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Houser, Hubert M. Carson	Farmer	85th—Fremont, Mills, *Pottawattamie*	None
Hurley, Charles Fayette	Attorney	28th—Buchanan, *Fayette*	74, 74X, 74XX
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Jochum, Pam Dubuque		35th—*Dubuque*	None
Kistler, Robert L. Fairfield	Legislator/ Tree Farmer	94th—*Jefferson*, Van Buren, Wapello	73, 74, 74X, 74XX
Klemme, Ralph F. Le Mars	Farmer	4th—*Plymouth*, Woodbury	None
Koenigs, Deo A. Osage	Farmer/ Legislator	29th—Floyd, *Mitchell*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Kreiman, Keith A. Bloomfield	Attorney	92nd—Appanoose, *Davis*, Monroe, Van Buren	None
*Larkin, Richard L. Fort Madison	Corrections Counselor	99th—Des Moines, *Lee*	None
Larson, Chuck Cedar Rapids	ESCO Electric	55th—*Linn*	None
Lundby, Mary A. Marion		51st—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX
Martin, Mona Davenport	Property Management/ Legislator	43rd—*Scott*	None
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* Elected in Special Election February 16, 1993

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McCoy, Matt ..... Des Moines	Sales	67th—*Polk*	None
McKinney, Wayne H., Jr. Waukee	Lawyer	77th—*Dallas*, Madison	72, 72X, 72XX, 73, 74, 74X, 74XX
McNeal, Clark E. ..... Iowa Falls	Lawyer	18th—Franklin, *Hardin*	74, 74X, 74XX
Mertz, Dolores ..... Ottosen	Farmer, Owner/ ... Operator	15th—Humboldt, ... *Kossuth*	73, 74, 74X, 74XX
Metcalf, Janet S. ..... Des Moines	Legislator	75th—*Polk*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Meyer, James A. ..... Odebolt	Farmer/..... Agribusiness	11th—Ida, *Sac*, ... Woodbury	None
Millage, David ..... Bettendorf	Attorney	41st—*Scott*	74, 74X, 74XX
Miller, Tom H. ..... Cherokee	Journalist	9th—Buena Vista, ... *Cherokee*, O'Brien, Plymouth	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Moreland, Michael ..... Ottumwa	Attorney	93rd—*Wapello*	None
Mundie, Norman ..... Fort Dodge	Farmer	14th—Boone, Calhoun, ... Hamilton, *Webster*	None
Murphy, Pat ..... Dubuque	Legislator	36th—*Dubuque*	73(2nd), 74, 74X, 74XX
Nelson, Linda ..... Council Bluffs	Elementary ..... School Teacher	83rd—*Pottawattamie*	None
Neuhauser, Mary ..... Iowa City	Attorney	46th—*Johnson*	72, 72X, 72XX, 73, 74, 74X, 74XX
O'Brien, Michael J. ..... Boone	Teacher	79th—*Boone*, Greene	None
Ollie, C. Arthur ..... Clinton	Teacher	38th—*Clinton*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Peterson, Michael K. ..... Carroll	Attorney	80th—*Carroll*, Greene	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Plasier, Lee ..... Sioux Center	Manager	5th—*Sioux*	72, 72X, 72XX, 73, 74, 74X, 74XX
Rafferty, Robert L. ..... Davenport	Attorney	42nd—*Scott*	74, 74X, 74XX
Rants, Christopher C. ... Sioux City	Environmental .... Projects Coordinator for Metz Baking Company	3rd—*Woodbury*	None
Renaud, Dennis L. ..... Altoona	D.M. Fire Dept. & Barber Business	66th—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Renken, Bob ..... Aplington	Farmer/..... Legislator	21st—Butler, *Grundy*	68(2nd), 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX

Name and Residence	Occupation	Representative District	Former Legislative Service
Royer, Bill D. ..... Essex	Real Estate/..... Certified Appraiser	87th—Adams, *Page*,..... Taylor	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Running, Richard V. .... Cedar Rapids	Quality Control .... Trainer	54th—*Linn*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Schrader, David ..... Monroe	Businessman	90th—*Marion*, Warren.....	72, 72X, 72XX, 73, 74, 74X, 74XX
Shoultz, Don ..... Waterloo	Coordinator of..... Workforce Training	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Siegrist, Brent ..... Council Bluffs	Educator.....	84th—*Pottawattamie*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX
† Spear, Clay R. ..... Wever	Retired	99th—Des Moines, *Lee*	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Spenner, Gregory A..... Mt. Pleasant	Insurance Agent/.. Broadcaster/ Legislator	97th—Des Moines, ... *Henry*, Washington	73, 74, 74X, 74XX
Tyrrell, Phil..... North English	Insurance	59th—Benton, *Iowa*	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX
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Van Maanen, Harold G. . Oskaloosa	Farmer	95th—*Mahaska*, Marion.....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX
Weidman, Dick ..... Griswold	Retired ..... State Trooper	86th—*Cass*, Montgomery,... Pottawattamie	74, 74X, 74XX
Weigel, Keith W. ..... New Hampton	Certified ..... Financial Planner	30th—*Chickasaw*, ... Howard, Winneshiek	None
Welter, Jerry J. ..... Monticello	Retired	56th—*Jones*, Linn.....	None
Wise, Philip L. ..... Keokuk	Teacher.....	98th—Henry, *Lee*	72, 72X, 72XX, 73, 74, 74X, 74XX
Witt, William G..... Cedar Falls	Photojournalist	23rd—*Black Hawk*	None

† Deceased January 27, 1993

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, 2000
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

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

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

131 East 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 West 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, SE
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 East 4th Street
Davenport, Iowa 52801-1513
(319) 322-4331

307 Federal Building
8 South 6th Street
Council Bluffs, Iowa 51501
(712) 322-7103

UNITED STATES REPRESENTATIVES

First District

Congressman James A. Leach (R)
2186 Rayburn House Office Bldg.
Washington, D.C. 20515-1501
(202) 225-6576

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

102 South Clinton, 505
Iowa City, Iowa 52240-4025
(319) 351-0789

308 10th Street, SE
Cedar Rapids, Iowa 52403-2416
(319) 363-4773

Second District

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

3356 Kimball Avenue
Waterloo, Iowa 50702
(319) 235-1109

2300 John F. Kennedy Road
Dubuque, Iowa 52002
(319) 557-7740

223 West Main Street
Manchester, Iowa 52057
(319) 927-5141

1825 4th Street, SW
Mason City, Iowa 50401
(515) 423-0303

Third District

Congressman James Lightfoot (R)
2444 Rayburn House Office Bldg.
Washington, D.C. 20515
(202) 225-3806

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

413 Kellogg
Ames, Iowa 50010-6225
(515) 232-1288

311 North 3rd Street
Burlington, Iowa 52601-5311
(319) 753-6415

347 East 2nd Street
Ottumwa, Iowa 52501-3001
(515) 683-3551

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

UNITED STATES REPRESENTATIVES – Continued

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

40 Pearl Street
Council Bluffs, Iowa 51503
(712) 323-5976

Fifth District

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

Suite 21
4501 Southern Hills Drive, #21
Sioux City, Iowa 51106
(712) 276-5800

822 Central Avenue, #102
Ft. Dodge, Iowa 50501
(515) 573-2738

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

CONDITION OF STATE TREASURY

June 30, 1992

	Balance June 30, 1991	Total Receipts and Disbursements	Total Available	Total Redemptions and Disbursements	Balance June 30, 1992
General Fund	$ 683,620	$ 4,627,953,944	$ 4,628,637,564	$ 4,564,071,499	$ 64,566,065
Special Revenue Fund	405,802,732	1,423,370,446	1,829,173,178	1,552,824,772	276,348,406
Capitol Project Fund	6,723,748	16,854,477	23,578,225	15,021,073	8,557,152
Debt Service Fund	7,890,962	18,391,577	26,282,539	19,012,363	7,270,176
Enterprise Fund	19,717,122	308,234,420	327,951,542	298,817,571	29,133,971
Internal Service Fund	2,314,194	122,679,972	124,994,166	109,301,458	15,692,708
Expendable Trust Fund	28,401,831	380,122,304	408,524,135	362,232,800	46,291,335
Nonexpendable Trust Fund	6,345,009	673,226	7,018,235	68	7,018,167
Pension Fund	5,212,562,301	733,595,428	5,946,157,729	250,092,332	5,696,065,397
Trust and Agency Fund	87,482,681	2,107,995,025	2,195,477,706	2,106,212,186	89,265,520
Totals	$ 5,777,924,200	$ 9,739,870,819	$ 15,517,795,019	$ 9,277,586,122	$6,240,208,897

Balance July 1, 1991	$ 5,777,924,200
Receipts and Transfers	9,739,870,819
Total Available	15,517,795,019
Redemptions and Disbursements	9,277,586,122
Balance June 30, 1992	$ 6,240,208,897

DEPARTMENT OF REVENUE AND FINANCE
May 20, 1993

ANALYSIS BY CHAPTERS

REGULAR SESSION

1993 Regular Session
Of The
Seventy-Fifth General Assembly
Of The
State Of Iowa

CHAPTER 1
SCHOOL FINANCE DEADLINES
S.F. 64

AN ACT extending deadlines for activities related to school districts as a result of previous legislation and providing an effective date.

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

Section 1. Section 24.27, Code 1993, is amended to read as follows:

24.27 PROTEST TO BUDGET.

Not later than March 25 or April 25 if the municipality is a school district, a number of persons in any municipality equal to one-fourth of one percent of those voting for the office of governor, at the last general election in the municipality, but the number shall not be less than ten, and the number need not be more than one hundred persons, who are affected by any proposed budget, expenditure or tax levy, or by any item thereof, may appeal from any decision of the certifying board or the levying board by filing with the county auditor of the county in which the municipal corporation is located, a written protest setting forth their objections to the budget, expenditure or tax levy, or to one or more items thereof, and the grounds for their objections. If a budget is certified after March 15 or April 15 in the case of a school district, all appeal time limits shall be extended to correspond to allowances for a timely filing. Upon the filing of a protest, the county auditor shall immediately prepare a true and complete copy of the written protest, together with the budget, proposed tax levy or expenditure to which objections are made, and shall transmit them forthwith to the state board, and shall also send a copy of the protest to the certifying board or to the levying board, as the case may be.

Sec. 2. Section 76.2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

If the resolution is filed prior to April 1 or May 1, if the political subdivision is a school district, the annual levy shall begin with the tax levy for collection commencing July 1 of that year. If the resolution is filed after April 1 or May 1, in the case of a school district, the annual levy shall begin with the tax levy for collection in the next succeeding fiscal year. However, the governing authority of a political subdivision may adjust a levy of taxes made under this section for the purpose of adjusting the annual levies and collections for property severed from the political subdivision, subject to the approval of the director of the department of management.

Sec. 3. Section 257.4, subsection 3, Code 1993, is amended to read as follows:

3. APPLICATION OF TAX. No later than ~~May~~ June 1 of each year, the department of management shall notify the county auditor of each county the amount, in dollars and cents per thousand dollars of assessed value, of the additional property tax levy in each school district in the county. A county auditor shall spread the additional property tax levy for each school district in the county over all taxable property in the district.

Sec. 4. Section 257.19, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Certification of a board's intent to participate for a budget year, the method of funding, and the amount to be raised shall be made to the department of management not later than ~~March~~ April 15 of the base year. Funding for the instructional support program shall be obtained from instructional support state aid and from local funding using either an instructional support property tax or a combination of an instructional support property tax and an instructional support income surtax.

Sec. 5. Section 257.29, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The educational improvement program shall provide additional revenues each fiscal year equal to a specified percent of the regular program district cost of the district, as determined by the board but not more than the maximum percent authorized by the electors if an election has been held. Certification of a district's participation for a budget year, the method of funding, and the amount to be raised shall be made to the department of management not later than ~~March~~ April 15 of the base year.

Sec. 6. Section 275.29, Code 1993, is amended to read as follows:

275.29 DIVISION OF ASSETS AND LIABILITIES AFTER REORGANIZATION.

Between July 1 and July 20, the board of directors of the newly formed school district shall meet with the boards of all the old districts, or parts of districts, affected by the organization of the new school corporation for the purpose of reaching joint agreement on an equitable division of the assets of the several school corporations or parts of school corporations and an equitable distribution of the liabilities of the affected corporations or parts of corporations. In addition, if outstanding bonds are in existence in any district, the boards shall meet together prior to ~~March~~ April 15 prior to the school year the reorganization is effective to determine the distribution of the bonded indebtedness between the districts so that the newly formed district may certify its budget under the procedures specified in chapter 24. The boards shall consider the mandatory levy required in section 76.2 and shall assure the satisfaction of outstanding obligations of each affected school corporation.

Sec. 7. Section 275.33, subsection 2, Code 1993, is amended to read as follows:

2. The collective bargaining agreement of the district with the largest basic enrollment for the year prior to the reorganization, as defined in section 257.6, in the new district shall serve as the base agreement and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall serve as the base agreement, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the newly formed district, using the base agreement as its existing contract, shall bargain with the combined employees of the existing districts for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by ~~March 15~~ May 31 prior to the school year in which the reorganization becomes effective or within one hundred eighty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the existing district with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective date of the reorganization, the base agreement shall remain in effect as specified in the agreement.

The provisions of the base agreement shall apply to the offering of new contracts, or continuation, modification, or termination of existing contracts as provided in subsection 1 of this section.

Sec. 8. Section 279.54, Code 1993, is amended to read as follows:

279.54 SCHOOL DISTRICT INCOME SURTAX.

If a majority of those voting in an election approves raising the additional enrichment amount for an asbestos project under section 279.53 and this section, not later than ~~March~~ April 15 of the previous school year the board shall certify to the department of management that the required procedures have been carried out, the method of funding the amount to be raised, and the department of management shall establish the amount of additional enrichment property tax to be levied or the amount of the combination of the enrichment property tax and the amount of enrichment income surtax to be imposed for each school year for which the additional enrichment amount for an asbestos project is authorized. The enrichment property tax and income surtax, if an income surtax is imposed, shall be levied and imposed, collected, and paid to the school district in the manner provided for the instructional support program in sections 257.21 through 257.26.

Moneys received are miscellaneous income for purposes of chapter 257.

Sec. 9. Section 298.2, subsection 2, Code 1993, is amended to read as follows:

2. The board of directors of a school district may certify for levy by ~~March~~ April 15 of a school year a tax on all taxable property in the school district for the regular physical plant and equipment levy.

Sec. 10. Section 298.2, subsection 3, unnumbered paragraph 2, Code 1993, is amended to read as follows:

If a combination of a property tax and income surtax is used, by ~~March~~ April 15 of the previous school year, the board shall certify the percent of the income surtax to be imposed and the amount to be raised to the department of management and the department of management shall establish the rate of the property tax and income surtax for the school year. The physical plant and equipment property tax and income surtax shall be levied or imposed, collected, and paid to the school district in the manner provided for the instructional support program in sections 257.21 through 257.26.

Sec. 11. Section 298.4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The board of directors of a school district may certify for levy by ~~March~~ April 15 of a school year, a tax on all taxable property in the school district for a district management levy. The revenue from the tax levied in this section shall be placed in the district management subfund of the general fund of the school district. The district management levy shall be expended only for the following purposes:

Sec. 12. Section 298.10, Code 1993, is amended to read as follows:

298.10 LEVY FOR CASH RESERVE.

The board of directors of a school district may certify for levy by ~~March~~ April 15 of a school year, a tax on all taxable property in the school district in order to raise an amount for a necessary cash reserve for a school district's general fund. The amount raised for a necessary cash reserve does not increase a school district's authorized expenditures as defined in section 257.7.

Sec. 13. Section 300.2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

If a majority of the votes cast upon the proposition is in favor of the proposition, the board shall certify the amount required for a fiscal year to the county board of supervisors by ~~March~~ April 15 of the preceding fiscal year. The board of supervisors shall levy the amount certified. The amount shall be placed in the schoolhouse fund of the district and shall be used only for the purposes specified in this chapter.

Sec. 14. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 12, 1993

CHAPTER 2

MOTOR VEHICLE PLATES FOR FIRE FIGHTERS
S.F. 18

AN ACT providing for special motor vehicle plates for fire fighters and providing an effective date.

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

Section 1. Section 321.34, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 16. FIRE FIGHTER PLATES. The owner of a motor vehicle subject to registration pursuant to section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, or travel trailer who is a current or former member of a paid or volunteer fire department, may upon written application to the department, order special registration plates, designed by the department in cooperation with representatives designated by the Iowa fire fighters' associations, which plates signify that the applicant is a current or former member of a paid or volunteer fire department. The application shall be approved by the department, in consultation with representatives designated by the Iowa fire fighters' associations and the special registration plates shall be issued to the applicant in exchange for the registration plates previously issued to the person. The fee for the special plates shall be twenty-five dollars which shall be in addition to the regular annual registration fee. The department shall validate the special plates in the same manner as regular registration plates are validated under this section at the regular annual registration fee.

Sec. 2. This Act takes effect on January 1, 1994.

Approved February 23, 1993

CHAPTER 3

SCHOOL FINANCE – STATE PERCENT OF GROWTH
H.F. 22

***AN ACT** establishing the state percent of growth for the school budget year beginning July 1, 1993, for purposes of the state school foundation program and providing effective and applicability date provisions.

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

Section 1. STATE PERCENT OF GROWTH. There is established pursuant to section 257.8, subsection 1, for the school budget year beginning July 1, 1993, for the state school foundation program a state percent of growth equal to two and one-tenth percent.

Sec. 2. Notwithstanding the thirty-day deadline for the enactment of the state percent of growth provided in section 257.8, subsection 1, such deadline shall not apply to the Act enacted which establishes the state percent of growth during the 1993 Session of the Seventy-fifth General Assembly.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment and is applicable for computing state aid under the state school foundation program for the school budget year beginning July 1, 1993.

Approved February 24, 1993

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

CHAPTER 4

SCHOOL SUPERINTENDENTS – SERVICE AS PRINCIPALS

S.F. 4

AN ACT to permit school or school district superintendents to serve concurrently as an elementary school principal in the school or school district.

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

Section 1. Section 256.11A, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 2. Section 280.14, Code 1993, is amended to read as follows:

280.14 SCHOOL REQUIREMENTS.

The board or governing authority of each school or school district subject to the provisions of this chapter shall establish and maintain adequate administration, school staffing, personnel assignment policies, teacher qualifications, certification requirements, facilities, equipment, grounds, graduation requirements, instructional requirements, instructional materials, maintenance procedures and policies on extracurricular activities. In addition the board or governing authority of each school or school district shall provide such principals as it finds necessary to provide effective supervision and administration for each school and its faculty and student body. An individual who is employed or contracted as a superintendent by a school or school district may also serve as an elementary principal in the same school or school district.

Approved February 26, 1993

CHAPTER 5

OFFICERS OF ARCHITECTURAL EXAMINING BOARD

H.F. 101

AN ACT relating to the election of officers on the architectural examining board.

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

Section 1. Section 544A.2, Code 1993, is amended to read as follows:

544A.2 OFFICERS.

~~During the month of July of each year~~ At a time to be determined by the board, the board shall elect from its members ~~a president, vice president, and secretary~~ officers to serve for a term not to exceed one year. ~~The duties of the officers are those usually performed by such officers.~~ The division shall provide staff assistance.

Approved March 1, 1993

CHAPTER 6

EQUIPMENT REPLACEMENT TAX FOR CERTAIN MERGED AREAS
S.F. 16

AN ACT authorizing certain merged areas to certify an additional equipment replacement tax levy for the fiscal year beginning July 1, 1993 and providing an effective date.

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

Section 1. ADDITIONAL ONE-YEAR EQUIPMENT REPLACEMENT TAX LEVY. For the fiscal year beginning July 1, 1993, and ending June 30, 1994, the board of directors of a merged area which did not certify and did not collect an equipment replacement tax levy under section 260C.28, subsection 1, for the fiscal year beginning July 1, 1992, and ending June 30, 1993, may certify for levy, in addition to the tax authorized by section 260C.28, subsection 1, for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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 in the merged area.

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

Approved March 8, 1993

CHAPTER 7

STATE EMPLOYEES DISABILITY INSURANCE PROGRAM
S.F. 56

AN ACT relating to the payment of benefits pursuant to the state employees disability insurance program, and providing effective and retroactive applicability dates.

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

Section 1. Section 70A.20, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A state employees disability insurance program is created, which shall be administered by the director of the department of personnel and which shall provide disability benefits in an amount and for the employees as provided in this section. The monthly disability benefits shall provide twenty percent of monthly earnings if employed less than one year, forty percent of monthly earnings if employed one year or more but less than two years, and sixty percent of monthly earnings thereafter, reduced by primary and family social security determined at the time social security disability payments commence, workers' compensation if applicable, and any other state sponsored sickness or disability benefits payable. However, the amount of benefits payable under the Iowa public employees' retirement system pursuant to chapter 97B shall not reduce the benefits payable pursuant to this section. Subsequent social security increases shall not be used to further reduce the insurance benefits payable. State employees shall receive credit for the time they were continuously employed prior to and on July 1, 1974. The following provisions apply to the employees disability insurance program:

Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1990.

Approved March 8, 1993

CHAPTER 8

SCHOOL FINANCE – ADDITIONAL ENRICHMENT AMOUNTS
S.F. 141

AN ACT to permit the participation in the voter-approved enrichment levy by newly reorganized school districts.

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

Section 1. Section 257.33, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Use of the additional enrichment amounts approved under chapter 442, Code 1991, 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 the use of the additional enrichment amount, and if the voters have not voted upon the question of participation in the instructional support program in the reorganized district, the use of the additional enrichment amount 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 March 8, 1993

CHAPTER 9

COMPUTATION OF TIME FOR FILING PURPOSES
H.F. 113

AN ACT relating to computing the time for filings with the clerk of the district court and providing a retroactive applicability date.

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

Section 1. Section 4.1, subsection 34, Code 1993, is amended to read as follows:

34. Time – legal holidays. In computing time, the first day shall be excluded and the last included, unless the last falls on Sunday, in which case the time prescribed shall be extended so as to include the whole of the following Monday. However, when by the provisions of a statute or rule prescribed under authority of a statute, the last day for the commencement of an action or proceedings, the filing of a pleading or motion in a pending action or proceedings, or the perfecting or filing of an appeal from the decision or award of a court, board, commission, or official falls on a Saturday, a Sunday, a day on which the office of the clerk of the district court is closed in whole or in part pursuant to the authority of the supreme court, the first day of January, the third Monday in January, the twelfth day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the eleventh day of November, the fourth Thursday in November, the twenty-fifth day of December, and the following Monday when any of the foregoing named legal holidays fall on a Sunday, and any day appointed or recommended by the governor of Iowa or the president of the United States as a day of fasting or thanksgiving, the time shall be extended to include the next day which ~~is not a Saturday, Sunday, or legal holiday named in this subsection~~ the office of the clerk of the court or the office of the board, commission, or official is open to receive the filing of a commencement of an action, pleading or a motion in a pending action or proceeding, or the perfecting or filing of an appeal.

Sec. 2. RETROACTIVE APPLICABILITY. This Act is retroactively applicable to December 1, 1992, and is applicable on and after that date.

Approved March 9, 1993

CHAPTER 10

UNEMPLOYMENT COMPENSATION – EXTENDED BENEFITS
H.F. 329

AN ACT relating to state work search requirements to qualify for extended unemployment benefits and providing an effective date.

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

Section 1. Section 96.29, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. This subsection shall not apply to claims for extended benefits for weeks of unemployment beginning March 6, 1993, and ending before January 1, 1995, or if otherwise prohibited by federal law.

Sec. 2. EFFECTIVE DATE. This Act applies retroactively to March 6, 1993.

Approved March 9, 1993

CHAPTER 11

ENERGY CONSERVATION TRUST
S.F. 74

AN ACT relating to the reestablishment of an energy conservation trust, providing for retroactive applicability, and providing for a repeal of the Act.

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

Section 1. NEW SECTION. 473.11 ENERGY CONSERVATION TRUST ESTABLISHED – RECEIPTS AND DISBURSEMENTS.

1. a. The energy conservation trust is created within the state treasury. This state, on behalf of itself, its citizens, and its political subdivisions accepts any moneys awarded or allocated to the state, its citizens, and its political subdivisions as a result of the federal court decisions and United States department of energy settlements resulting from alleged violations of federal petroleum pricing regulations and deposits the moneys in the energy conservation trust.

b. The energy conservation trust is established to provide for an orderly, efficient, and effective mechanism to make maximum use of moneys available to the state, in order to increase energy conservation efforts and thereby to save the citizens of this state energy expenditures. The moneys in the funds in the trust shall be expended only upon appropriation by the general assembly and only for programs which will benefit citizens who may have suffered economic penalties resulting from the alleged petroleum overcharges.

c. The moneys awarded or allocated from each court decision or settlement shall be placed in a separate fund in the energy conservation trust. Notwithstanding section 12C.7, interest

and earnings on investments from moneys in the trust shall be credited proportionately to the funds in the trust.

d. Unless prohibited by the conditions applying to a settlement, the petroleum overcharge moneys in the energy conservation trust may be used for the payment of attorney fees and expenses incurred by the state to obtain the moneys and shall be paid by the director of revenue and finance from the available moneys in the trust subject to the approval of the attorney general.

e. However, petroleum overcharge moneys received pursuant to claims filed on behalf of the state, its institutions, departments, agencies, or political subdivisions shall be deposited in the general fund of the state to be disbursed directly to the appropriate claimants in accordance with federal guidelines and subject to the approval of the attorney general.

f. The moneys deposited in the energy research and development fund shall be used for research and development of selected projects to improve Iowa's energy independence by developing improved methods of energy efficiency, or by increased development and use of Iowa's renewable nonresource-depleting energy resources. The moneys credited to the fund under section 556.18 shall be used for energy conservation and alternative energy resource projects. The projects shall be selected by the director and administered by the department. Selection criteria for funded projects shall include consideration of indirect restitution to those persons in the state in the utility customer classes and the utility service territories affected by unclaimed utility refunds or deposits.

Notwithstanding the provisions of this paragraph 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.

2. The treasurer of state shall be the custodian of the energy conservation trust and shall invest the moneys in the trust, in consultation with the energy fund disbursement council established in subsection 3 and the investment board of the Iowa public employees' retirement system, in accordance with the following guidelines:

a. To maximize the rate of return on moneys in the trust while providing sufficient liquidity to make fund disbursements, including contingency disbursements.

b. To absolutely insure the trust against loss.

c. To use such investment tools as are necessary to achieve these purposes.

3. An energy fund disbursement council is established. The council shall be composed of the governor or the governor's designee, the director of the department of management, who shall serve as the council's chairperson, the administrator of the division of community action agencies of the department of human rights, the administrator of the energy and geological resources division of the department of natural resources, and a designee of the director of transportation, who is knowledgeable in the field of energy conservation. The council shall include as nonvoting members two members of the senate appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and two members of the house of representatives appointed by the speaker of the house, after consultation with the majority leader and the minority leader of the house. The legislative members shall be appointed upon the convening and for the period of each general assembly. Not more than one member from each house shall be of the same political party. The council shall be staffed by the energy and geological resources division of the department of natural resources. The attorney general shall provide legal assistance to the council.

The council shall do all of the following:

a. Oversee the investment of moneys deposited in the energy conservation trust.

b. Make recommendations to the governor and the general assembly regarding annual appropriations from the energy conservation trust.

c. Work with the energy and geological resources division in adopting administrative rules necessary to administer expenditures from the trust, encourage applications for grants and loans, review and select proposals for the funding of competitive grants and loans from the energy conservation trust, and evaluate their comparative effectiveness.

d. Monitor expenditures from the trust.

e. Approve any grants or contracts awarded from the energy conservation trust in excess of five thousand dollars.

f. Prepare, in conjunction with the energy and geological resources division, an annual report to the governor and the general assembly regarding earnings of and expenditures from the energy conservation trust.

4. The administrator of the energy and geological resources division of the department of natural resources shall be the administrator of the energy conservation trust. The administrator shall disburse moneys appropriated by the general assembly from the funds in the trust in accordance with the federal court orders, law and regulation, or settlement conditions applying to the moneys in that fund, and subject to the approval of the energy fund disbursement council if such approval is required. The council, after consultation with the attorney general, shall immediately approve the disbursement of moneys from the funds in the trust for projects which meet the federal court orders, law and regulations, or settlement conditions which apply to that fund.

5. The following funds are established in the energy conservation trust:

a. The Warner/Imperial fund.

b. The Exxon fund.

c. The Stripper Well fund.

d. The Diamond Shamrock fund.

e. The office of hearings and appeals second-stage settlement fund.

f. The energy research and development fund.

6. The moneys in the fund in the energy conservation trust distributed to the state as a result of the federal court decisions finding oil companies in violation of federal petroleum pricing regulations shall be expended expeditiously, until all the receipts are depleted and shall be disbursed for projects which meet the strict guidelines of the five existing federal energy conservation programs specified in Pub. L. No. 97-377, § 155, 96 Stat. 1830, 1919 (1982). The council shall approve the disbursement of moneys from the fund in the trust for other projects only if the projects meet one or more of the following conditions:

a. The projects meet the guidelines for allowable projects under a modification order entered by the federal court in the case involving Exxon corporation.

b. The projects meet the guidelines for allowable projects under a directive order entered by the federal court in the case involving Exxon corporation.

c. The projects meet the guidelines for allowable projects under the regulations adopted or written clarifications issued by the United States department of energy.

d. The projects meet the guidelines for allowable projects under the petroleum violation settlement agreement expenditure plan approved by the United States department of energy.

Sec. 2. RETROACTIVE APPLICATION. This bill applies retroactively to June 30, 1992.

Sec. 3. REPEAL. This Act is repealed June 30, 2000.

Approved March 15, 1993

CHAPTER 12

JUVENILE JUSTICE SYSTEM STUDY
S.F. 20

AN ACT relating to the completion dates of the juvenile justice system study, and providing an effective date.

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

Section 1. 1992 Iowa Acts, chapter 1231, section 68, is amended to read as follows:

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~~ A preliminary report on the progress of the study, which contains preliminary findings, shall be submitted to the juvenile justice system study committee no later than March 30, 1993, and the final report containing findings and recommendations shall be submitted to the legislative council no later than June 30, 1993.

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

Approved March 18, 1993

CHAPTER 13

FORESTS AND FORESTRY MANAGEMENT
H.F. 387

AN ACT relating to the receipt and expenditure of federal forest and forest management funds.

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

Section 1. Section 456A.24, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13. Apply to any appropriate agency or officer of the United States government to participate in or receive aid from any federal program relating to forests or forestry management. The department may enter into contracts and agreements with the United States government or an appropriate agency of the United States government as necessary to secure funding for the acquisition, development, improvement, and management of forests and forestry resources and to provide funds or assistance to local governments or private citizens involved in forestry management. In connection with obtaining the benefits of a forestry program, the director shall coordinate the department's activities with and represent the interests of all state agencies and the political subdivisions of the state having interests in forests or forestry management.

Approved March 19, 1993

CHAPTER 14

STATUTE OF LIMITATIONS FOR MARKETABLE TITLE
S.F. 167

AN ACT relating to the statute of limitations for marketable title.

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

Section 1. Section 614.15, subsection 2, Code 1993, is amended to read as follows:

2. In all cases where the holder of the legal or equitable title or estate to real estate situated within this state, after July 1, ~~1991~~ 1981, conveyed the real estate or any interest in the real estate by deed, mortgage, or other instrument, and the spouse failed to join in the conveyance, the spouse or the heirs at law, personal representative, devisees, grantees, or assignees of the spouse are barred from recovery unless suit is brought for recovery within ten years from the date of the conveyance. However, in the case where the right to the distributive share has not accrued by the death of the spouse executing the instrument, then the party not joining is authorized to file in the recorder's office in the county where the land is situated, a notice with affidavit setting forth the affiant's claim, together with the facts upon which the claim is based, and the residence of the claimants. If the notice is not filed within ten years from the date of the execution of the instrument the claim is barred forever. Any action contemplated in this section may include land situated in different counties by giving notice as provided in section 617.13. The effect of filing the notice with affidavit shall extend for a further period of ten years the time within which the action may be brought. Successive notices may be filed extending this period.

Sec. 2. For claims under section 614.15, subsection 2, relating to conveyances between July 1, 1982, and June 30, 1984, the period in which the claim must be brought is extended through June 30, 1994.

Approved March 29, 1993

CHAPTER 15

AMATEUR BOXING
H.F. 501

AN ACT relating to the maximum age for participants in an organized amateur boxing contest and providing an effective date.

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

Section 1. Section 90A.10, subsection 1, Code 1993, is amended to read as follows:

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

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

Approved March 29, 1993

CHAPTER 16

MOTOR VEHICLE LICENSE REVOCATION FOR DRUG OFFENSES

S.F. 373

AN ACT relating to the operation of a motor vehicle while under the influence of a drug, and providing for the revocation of motor vehicle licenses for drug offenses.

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

Section 1. Section 124.412, Code 1993, is amended to read as follows:

124.412 NOTICE OF CONVICTION.

~~Whenever any~~ If a person enters a plea of guilty to, or forfeits bail or collateral deposited to secure the person's appearance in court, and such forfeiture is not vacated, or if a person is found guilty upon an indictment or information alleging a violation of this chapter, a copy of the minutes attached to the indictment returned by the grand jury, or to the county attorney's information, a copy of the judgment and sentence, and a copy of the opinion of the judge if one is filed, shall be sent by the clerk of the district court or the judge to the state department of transportation and to any state board or officer by whom the convicted person has been licensed or registered to practice the person's profession or carry on the person's business. On the conviction of ~~any such~~ a person, the court may~~, in its considered judgment,~~ suspend or revoke the license or registration of the convicted defendant to practice the defendant's profession or carry on the defendant's business. On the application of ~~any~~ a person whose license or registration has been suspended or revoked, and upon proper showing and for good cause, ~~said~~ the board or officer may reinstate ~~such~~ the license or registration.

Sec. 2. NEW SECTION. 126.26 NOTICE OF CONVICTION.

If a person enters a plea of guilty, or forfeits bail or collateral deposited to secure the person's appearance in court, and the forfeiture is not vacated, or if a person is found guilty upon an indictment or information alleging a violation of this chapter, a copy of the minutes attached to the indictment returned by the grand jury, or to the county attorney's information, a copy of the judgment and sentence, and a copy of the opinion of the judge if one is filed, shall be sent by the clerk of the district court or the judge to the state department of transportation.

Sec. 3. Section 321.205, Code 1993, is amended to read as follows:

321.205 CONVICTION OR ADMINISTRATIVE DECISION IN ANOTHER STATE.

The department is authorized to suspend or revoke the motor vehicle license of a resident of this state upon receiving notice of the conviction of the resident in another state or for a conviction under federal jurisdiction for an offense which, if committed in this state, would be grounds for the suspension or revocation of the license or upon receiving notice of a final administrative decision in another state that the resident has acted in a manner which would be grounds for suspension or revocation of the license in this state.

The department shall suspend or revoke for one hundred eighty days the motor vehicle license of a resident of this state upon receiving notice of conviction in another state or under federal jurisdiction for an offense enumerated under section 321.209, subsection 8.

Sec. 4. Section 321.209, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A controlled substance offense under section 124.401, 124.401A, 124.402, or 124.403; a controlled substance tax offense under chapter 453B; a drug or drug-related offense under section 126.3; or an offense under 21 U.S.C. ch. 13.

Sec. 5. Section 321.212, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The department shall revoke a motor vehicle license under section 321.209, subsection 8, for one hundred eighty days. If the person has not been issued a motor vehicle license, the issuance of a motor vehicle license shall be delayed for one hundred eighty days after the person is first eligible. If the person's operating privileges have been

suspended or revoked at the time the person is convicted, the one-hundred-eighty-day revocation period shall not begin until all other suspensions or revocations have terminated.

Sec. 6. Section 321.213, Code 1993, is amended to read as follows:

321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE TO VIOLATIONS BY JUVENILE DRIVERS.

Upon the entering of an order at the conclusion of an adjudicatory hearing under section 232.47 that the child violated a provision of this chapter or chapter 124, 126, 321A, ~~or chapter~~ 321J, or 453B for which the penalty is greater than a simple misdemeanor, the clerk of the juvenile court in the adjudicatory hearing shall forward a copy of the adjudication to the department. Notwithstanding section 232.55, a final adjudication in a juvenile court that the child violated a provision of this chapter or section 124.401, 124.402, 124.403, a drug offense under section 126.3, or chapter 321A, ~~or chapter~~ 321J, or 453B constitutes a final conviction of a violation of a provision of this chapter or section 124.401, 124.402, 124.403, a drug offense under section 126.3, or chapter 321A, ~~or chapter~~ 321J, or 453B for purposes of section 321.189, subsection 8, paragraph "b", and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, 321A.17, 321J.2, 321J.3, and 321J.4.

Sec. 7. Section 321.215, subsection 1, paragraph e, Code 1993, is amended to read as follows:

e. The person's court-ordered community service responsibilities.

However, a temporary restricted license shall not be issued to a person whose license is revoked under section 321.209, subsections 1 through 5 or subsection 7 or 8. A temporary restricted license may be issued to a person whose license is revoked under section 321.209, subsection 6, only if the person has no previous drag racing convictions. A person holding a temporary restricted license issued by the department under this section shall not operate a motor vehicle for pleasure.

Sec. 8. Section 321.215, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Upon conviction and the suspension or revocation of a person's motor vehicle license under section 321.209, subsection 5 ~~or~~, 6, or 8; 321.210~~,~~; 321.210A~~,~~; 321.513~~,~~; or 321.555, subsection 2, and upon the denial by the director of an application for a temporary restricted license, a person may apply to the district court having jurisdiction for the residence of the person for a temporary restricted permit to operate a motor vehicle for the limited purpose or purposes specified in subsection 1. The application may be granted only if all of the following criteria are satisfied:

Sec. 9. Section 321.215, subsection 2, paragraphs a and d, Code 1993, are amended to read as follows:

a. The temporary restricted permit is requested only for a case of extreme hardship or compelling circumstances where alternative means of transportation do not exist.

d. Proof of financial responsibility is established as defined in chapter 321A; ~~however~~. However, such proof is not required if the motor vehicle license was suspended under section 321.210A or 321.513 or revoked under section 321.209, subsection 8.

Sec. 10. Section 321.491, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All federal courts located in the state are requested to forward to the department a record of conviction of a person for a violation of a federal drug or controlled substance law.

Sec. 11. Section 321A.17, subsection 5, Code 1993, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under section 321.209, subsection 8, section 321.210A, 321.216, or 321.513, or following a period of suspension under section 321.194, is not required to maintain proof of financial responsibility under this section.

Sec. 12. NEW SECTION. 453B.16 NOTICE OF CONVICTION.

If a person enters a plea of guilty, or forfeits bail or collateral deposited to secure the person's appearance in court, and the forfeiture is not vacated, or if a person is found guilty upon an indictment or information alleging a violation of this chapter, a copy of the minutes attached to the indictment returned by the grand jury, or to the county attorney's information, a copy of the judgment and sentence, and a copy of the opinion of the judge if one is filed, shall be sent by the clerk of the district court or the judge to the state department of transportation.

Approved April 2, 1993

CHAPTER 17

REINSTATEMENT OF ADMINISTRATIVELY DISSOLVED CORPORATIONS

H.F. 138

AN ACT relating to the time limitation within which an administratively dissolved corporation may apply for reinstatement.

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

Section 1. Section 490.1422, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A corporation administratively dissolved under section 490.1421 may apply to the secretary of state for reinstatement within ~~ten~~ two years after the effective date of dissolution. The application must meet all of the following requirements:

Approved April 5, 1993

CHAPTER 18

STATE HISTORICAL SOCIETY BOARD OF TRUSTEES

H.F. 182

AN ACT relating to the expansion of the state historical society board of trustees.

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

Section 1. Section 303.4, Code 1993, is amended to read as follows:

303.4 STATE HISTORICAL SOCIETY OF IOWA — BOARD OF TRUSTEES.

1. A state historical society board of trustees is established consisting of ~~seven~~ twelve members selected as follows:

a. Three members shall be elected by the members of the state historical society according to rules established by the board of trustees.

b. ~~Four members shall be appointed by the governor, two of whom shall be on the faculty of a college or university in the state in disciplines related to the activities of the historical society~~ The governor shall appoint one member from each of the state's congressional districts.

c. The governor shall appoint four members from the state at large, at least one of whom shall be on the faculty of a college or university in the state engaged in a discipline related to the activities of the historical society.

2. The term of office of members of the board of trustees is three years commencing and ending as provided in section 69.19. The terms of office of the governor's appointees are staggered ~~so that in one year two members are appointed and in each of the next two years one member is appointed~~ terms of three years each, so that three members are appointed each year.

Sec. 2. TRANSITION. To implement this Act:

1. The current members of the board shall remain on the existing appointment cycle so that in 1993 one current member vacancy exists for a three-year term; two new members shall be appointed for one-year terms; one new member shall be appointed for a two-year term; and two new members shall be appointed for three-year terms.

2. In 1994, one current member vacancy exists for a three-year term with two positions of the members initially appointed in 1993 to be vacant for appointment to three-year terms.

3. In 1995, two current member vacancies will be up for three-year terms with one position of a member initially appointed in 1993 to be vacant for appointment to a three-year term.

4. Beginning in 1996, there will be three vacancies each year.

Approved April 5, 1993

CHAPTER 19

PRACTICE OF PUBLIC ACCOUNTING

H.F. 191

AN ACT authorizing certified public accountants and accounting practitioners to practice as limited liability companies.

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

Section 1. Section 542C.2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Practice of public accounting" means the performance or the offering to perform, by a person holding oneself out to the public as a certified public accountant or accounting practitioner, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory, financial advisory, or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

Sec. 2. Section 542C.3, subsection 7, Code 1993, is amended to read as follows:

7. The board may issue further rules and regulations, including but not limited to rules of professional conduct, pertaining to corporations or limited liability companies practicing public accounting, which it deems consistent with or required by the public welfare. The board may prescribe rules governing the style, name, and title of corporations and limited liability companies and governing the affiliation of corporations and limited liability companies with other organizations.

Regulations adopted by the board shall not be in conflict with the Iowa ~~Professional Corporation~~ professional corporation Act, provided in chapter 496C or the limited liability company Act, provided in chapter 490A.

Sec. 3. Section 542C.6, subsection 1, paragraph a, Code 1993, is amended to read as follows:

a. "Applicant" means an entity holding a permit to practice as a corporation, limited liability company, or partnership of certified public accountants issued pursuant to section 542C.20, subsection 3, or a person certified as a certified public accountant pursuant to section 542C.5 who practices as a sole proprietorship.

Sec. 4. Section 542C.18, unnumbered paragraphs 2 through 5, Code 1993, are amended to read as follows:

A corporation organized for the practice of public accounting shall register with the board as a corporation of certified public accountants or accounting practitioners. A limited liability company organized for the practice of public accounting shall register with the board as a limited liability company of certified public accountants or accounting practitioners.

Application for registration as a partnership, ~~or~~ corporation, or limited liability company shall be made upon the affidavit of a general partner of the partnership, ~~or~~ officer of the corporation, or manager of the limited liability company who is a certified public accountant or accounting practitioner of this state having a current permit to practice.

The board shall in ~~each~~ every case determine whether the applicant is eligible for registration.

A partnership, ~~or~~ corporation, or limited liability company which is so registered, and which holds a permit issued under section 542C.20, may use the words "certified public accountant" or the abbreviation "CPA" or "accounting practitioner" or the abbreviation "AP" in connection with its partnership, ~~or~~ corporation, or limited liability company name.

Sec. 5. Section 542C.19, unnumbered paragraphs 1 and 2, Code 1993, are amended to read as follows:

Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, or partnership, ~~or~~ corporation, or limited liability company of certified public accountants, or by an accounting practitioner or partnership of accounting practitioners, or by a person registered under section 542C.17, shall be registered annually under this chapter with the board, but no fee shall be charged for the registration.

Each such office shall be under the direct supervision of a resident manager who may be either a member, principal, shareholder, or a staff employee holding a current permit under section 542C.20. The title or designation "certified public accountant" or the abbreviation "CPA" or "accounting practitioner" or the abbreviation "AP" shall not be used in connection with an office unless the resident manager is the holder of a certificate as a certified public accountant under section 542C.5, or a license as an accounting practitioner issued under section 542C.7 or 542C.8, and a permit issued under section 542C.20, both of which are in full force and effect.

Sec. 6. Section 542C.20, subsections 3 through 5, Code 1993, are amended to read as follows:

3. Permits to engage in the practice of public accounting in this state shall also be issued by the board to persons, partnerships, ~~and~~ corporations, or limited liability companies registered under sections 542C.17 and 542C.18 if all offices of the registrant are maintained and registered as required under section 542C.19.

4. There shall be a permit fee in an amount to be determined by the board, payable by certified public accountants and accounting practitioners engaged in practice in this state. A fee shall not be charged for the renewal of a partnership, ~~or~~ corporation, or limited liability company permit to practice. All permits shall expire as determined by the board.

5. A person, firm, ~~or~~ corporation, or limited liability company shall not practice as a certified public accountant or accounting practitioner without a permit.

Sec. 7. Section 542C.22, Code 1993, is amended to read as follows:

542C.22 REVOCATION, SUSPENSION, AND REFUSAL TO RENEW REGISTRATION AND PERMIT OF PARTNERSHIP, ~~OR~~ CORPORATION, OR LIMITED LIABILITY COMPANY.

After notice and hearing as provided in section 542C.23, the board shall revoke the registration and permit to practice of a partnership, ~~or~~ corporation, or limited liability company if at any time it does not possess the qualifications prescribed by the section of this chapter under which it qualified for registration.

After notice and hearing as provided in section 542C.23, the board may revoke or suspend the registration of a partnership, ~~or~~ corporation, or limited liability company, or may revoke, suspend, or refuse to renew its permit to practice or may censure the holder of any such permit for any of the following additional causes:

1. The revocation or suspension of the certificate, registration, or license or the revocation or suspension or refusal to renew the permit to practice of any member, partner, officer, or shareholder.

2. The cancellation, revocation, suspension, or refusal to renew the authority of the partnership, ~~or~~ corporation, or limited liability company, or any member, partner, officer, or shareholder thereof to practice public accounting in any other state for any cause other than failure to pay appropriate fees in such other state.

Sec. 8. Section 542C.23, subsection 4, Code 1993, is amended to read as follows:

4. At any hearing the accused may appear in person and by counsel, produce evidence and witnesses on behalf of the accused, cross-examine witnesses, and examine evidence which is produced against the accused. A corporation may be represented before the board by counsel, or by a shareholder who is a certified public accountant or accounting practitioner of this state in good standing. A limited liability company may be represented before the board by counsel, or by a member who is a certified public accountant or accounting practitioner of this state in good standing. The accused is entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses on behalf of the accused.

Sec. 9. Section 542C.25, subsections 2, 4, 6, 7, 9, and 10, Code 1993, are amended to read as follows:

2. ~~No~~ A partnership, ~~or~~ corporation, or limited liability company shall not assume or use the title or designation "certified public accountant" or the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership, ~~or~~ corporation, or limited liability company is composed of certified public accountants unless ~~the partnership or corporation~~ it is registered as a partnership ~~of certified public accountants~~, corporation, or limited liability company under section 542C.18, holds a current permit issued under section 542C.20, and all offices of such partnership, ~~or~~ corporation, or limited liability company in this state for the practice of public accounting are maintained and are registered as required under section 542C.19.

4. A partnership, ~~or~~ corporation, or limited liability company shall not assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the partnership, ~~or~~ corporation, or limited liability company is composed of certified public accountants, unless the partnership, ~~or~~ corporation, or limited liability company is registered as a partnership, ~~or~~ corporation, or limited liability company of certified public accountants under section 542C.18.

6. ~~No~~ A partnership, ~~or~~ corporation, or limited liability company shall not assume or use the title or designation "accounting practitioner" or the abbreviation "AP" or any other title, designation, words, letters, abbreviation, sign, card, or device, tending to indicate that the partnership, ~~or~~ corporation, or limited liability company is composed of licensed accounting practitioners ~~unless the~~ except as a partnership, ~~or~~ corporation, or limited liability company under section 542C.18 ~~holds~~ holding a permit issued under section 542C.20, and all offices of the partnership, ~~or~~ corporation, or limited liability company in this state are maintained and are registered as required under section 542C.19.

7. ~~No~~ A person, partnership, ~~or~~ corporation, or limited liability company shall not assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", or any other title or designation likely to be confused with "certified public accountant" or "public accountant" or any of the abbreviations "CA", "PA", "EA", "RA", or "LA", or similar abbreviations, likely to be confused with "CPA". However, a foreign accountant registered under section 542C.17 may use the title under which the foreign accountant is generally known in the foreign accountant's country, followed by the name of the country from which the foreign accountant received the certificate, license, or degree. Nothing in this subsection shall prohibit the use of the title or designation "accountant" by persons other than those holding a current permit issued under section 542C.20.

9. ~~No~~ A person shall not sign or affix a partnership, ~~or~~ corporation, or limited liability company name to any opinion attesting to the reliability of any representation in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including but not limited to statutes, ordinances, regulations, grants, loans and appropriations, ~~unless~~ except the name of a partnership, ~~or~~ corporation, or limited liability company ~~holds~~ holding a current permit issued under section 542C.20 and with all of its offices in this state for the practice of certified public accounting ~~are~~ maintained and registered as required under section 542C.19.

10. A person shall not assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership, ~~or~~ corporation, or limited liability company or in conjunction with the designation "and company", "and co.", or a similar designation, if in any such case, there is in fact no bona fide partnership, ~~or~~ corporation, or limited liability company registered under section 542C.18; however, a sole proprietor or partnership lawfully using such a title or designation on July 1, 1975, may continue to do so if the sole proprietor or partnership otherwise complies with the provisions of this chapter.

Sec. 10. Section 542C.26, Code 1993, is amended to read as follows:

542C.26 EMPLOYEES OF ACCOUNTANTS.

This chapter does not prohibit any person not a certified public accountant or accounting practitioner from serving as an employee of, or an assistant to, a certified public accountant or accounting practitioner, or partnership, ~~or~~ corporation, or limited liability company composed of certified public accountants or accounting practitioners, holding a permit to practice issued under section 542C.20, or a foreign accountant registered under section 542C.17; however, the employee or assistant shall not issue any accounting or financial statement over the employee's or assistant's name.

Sec. 11. Section 542C.31, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~No such~~ A statement, record, schedule, working paper, or memoranda, shall not be sold, transferred or bequeathed, without the consent of the client or the client's personal representative or assignee, to anyone other than one or more surviving partners or new partners of the accountant or to the accountant's corporation or limited liability company.

Approved April 5, 1993

CHAPTER 20

PROTECTION OF NONGAME SPECIES

H.F. 346

AN ACT relating to the protection of nongame species.

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

Section 1. Section 481A.42, Code 1993, is amended to read as follows:

481A.42 NONGAME PROTECTED — EXCLUSION.

Protected nongame species include wild fish, wild birds, wild bats, wild reptiles, and wild amphibians, an egg, a nest ~~in current use~~, 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 5, 1993

CHAPTER 21

BEES AND BEEKEEPING

H.F. 401

AN ACT relating to bees and beekeeping, repealing a section, and making penalties applicable.

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

Section 1. Section 160.1A, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 2. Section 160.1A, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. "Package" means a shipping cage exclusively containing adult bees, without beeswax combs.

Sec. 3. Section 160.2, Code 1993, is amended to read as follows:

160.2 DUTIES.

The state apiarist shall ~~give~~ do all of the following:

a. Give lectures and demonstrations in the state on the production of honey, the care of the apiary, the marketing of honey, and upon other kindred subjects relative to the care of bees and the profitable production of honey; ~~shall examine.~~

b. Examine bees, combs, and ~~appliances~~ equipment in any locality which the apiarist may suspect of being African in origin or ~~infected~~ infested with a parasite or foulbrood or any other contagious or infectious disease common to bees; ~~and shall regulate.~~

c. Regulate bees, combs, and used ~~appliances~~ equipment moving across state borders.

Sec. 4. Section 160.5, unnumbered paragraph 3, Code 1993, is amended to read as follows:

A person who desires to move a colony, package, or ~~a~~ used ~~appliance~~ equipment with combs into this state shall apply to the state apiarist for a written entry permit at least sixty days prior to the proposed entry date. A statement must accompany each application for an entry permit describing each offense related to beekeeping for which the person has been subject to a penalty by a state, federal, or foreign government. The written entry permit must accompany all such shipments when they enter the state. Entry into this state without a permit is unlawful and is punishable pursuant to section 160.14. However, entry requirements of this section shall not apply to a package shipped by the United States postal service.

Sec. 5. Section 160.5, subsection 1, Code 1993, is amended to read as follows:

1. A valid Iowa certificate of inspection must be on file with the department or a valid certificate of inspection or certificate of health dated within the last sixty days must have been submitted by the state apiarist or inspector of the state of origin ~~indicating~~. A certificate must indicate the absence of any contagious diseases, parasites, or Africanized bees in the colony or package to be shipped.

Sec. 6. Section 160.6, Code 1993, is amended to read as follows:

160.6 NOTICE TO TREAT, DISINFECT, REMOVE, OR DESTROY.

~~A notice~~ The state apiarist shall ~~be issued by the state apiarist~~ provide a notice in writing to ~~any~~ an owner of bees or bee ~~supplies~~ equipment infested with contagious diseases,

parasites, or Africanized bees to ~~complete disinfection or destruction within ten days with immediate action in emergency cases~~ treat, disinfect, destroy, or remove a colony or equipment in a manner and by a time specified by the state apiarist in the order.

Sec. 7. Section 160.7, Code 1993, is amended to read as follows:

160.7 APIARIST TO DISINFECT OR DESTROY – COSTS.

If the owner fails to comply with ~~said notice~~ the notice provided in section 160.6, the state apiarist ~~or the apiarist's assistants shall carry out such disinfection or~~ shall declare the diseased, parasite-infested or Africanized colonies a nuisance, and administer the destruction, ~~and~~ or disinfection of the bee colonies or equipment required to eliminate the source of the disease, parasites, or Africanized bees. The state apiarist shall keep an account of ~~the cost thereof~~ costs related to the destruction.

Sec. 8. Section 160.9, Code 1993, is amended to read as follows:

160.9 RULES.

The state apiarist shall ~~issue~~ adopt rules ~~prohibiting the transportation without a permit of any bees, combs, or used beekeeping appliances, into any area in which clean-up work is being conducted or which has been declared free of any diseases or parasitic infestations~~ relating to the inspection, regulation of movement, sale, and cleanup of bee colonies and used beekeeping equipment, that is infested with a contagious disease, harmful parasites, or an undesirable subspecies of honey bees.

Sec. 9. Section 160.14, subsections 1 through 3, Code 1993, are amended to read as follows:

1. A person who knowingly sells, barters, gives away, ~~or~~ moves, or allows to be moved, a diseased or parasite-infested colony, ~~appliance~~ package, equipment, or combs without the consent of the state apiarist, or exposes infected honey or infected ~~appliances~~ equipment to the bees, or who willfully fails or neglects to give proper treatment to a diseased or parasite-infested colony, or who interferes with the state apiarist or the apiarist's assistants in the performance of official duties or who refuses to permit the examination of bees or their destruction as provided in this chapter or violates another provision of this chapter, except as provided in subsection 2, is guilty of a simple misdemeanor.

2. A person who knowingly moves or causes to be moved into this state a colony, package, used ~~appliance~~ equipment, or combs in violation of section 160.5, is guilty of a serious misdemeanor.

3. Each day a colony, a package, used ~~appliance~~ equipment, or combs moved into this state in violation of section 160.5 ~~remains~~ remain in this state constitutes a separate offense. A colony, package, used ~~appliance~~ equipment, or combs brought into this state in violation of section 160.5 may be declared a nuisance. The department shall provide written notice to the person owning the land where the colony, package, used ~~appliance~~ equipment, or combs are located, and, if known, to the person owning the colony, package, used ~~appliance~~ equipment, or combs. The notice shall state that the owner of the colony, package, used ~~appliance~~ equipment, or combs must remove the colony, package, used ~~appliance~~ equipment, or combs from this state within five days of the notification. After the five days have lapsed the department may seize the colony, package, used ~~appliance~~ equipment, or combs. The department may secure a warrant if the owner of the land objects to the seizure. The department shall maintain the seized property until a court, upon petition by the department, determines the disposition of the property. The court shall render a decision concerning the disposition of the property by the court within ten days of the filing of the petition. Upon conviction of a violation of section 160.5, a person shall forfeit all interest in property moved in violation of that section and the department may immediately destroy the property.

Sec. 10. Section 160.10, Code 1993, is repealed.

Approved April 5, 1993

CHAPTER 22

ADOPTION EXCHANGE

S.F. 97

AN ACT relating to the Iowa adoption exchange system.

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

Section 1. Section 232.119, subsection 3, Code 1993, is amended to read as follows:

3. To register a child on the Iowa exchange, the department adoption worker or the private agency worker shall ~~submit all~~ register the pertinent information concerning the child~~, a brief description and~~ on the exchange. A photo of the child, and other necessary information ~~needed to be compatible with the national adoption exchange. The exchange shall include a~~ shall be forwarded to the department to be included in the photo-listing book which shall be updated regularly. The department adoption worker or the private agency ~~which~~ worker who places a child on the exchange shall ~~provide updated~~ update the registration information within ten working days after a change in the information ~~previously submitted~~ occurs.

Approved April 6, 1993

CHAPTER 23

UNEMPLOYMENT COMPENSATION – EMPLOYER CONTRIBUTIONS

S.F. 239

AN ACT relating to unemployment compensation by establishing a minimum highest benefit cost ratio, by changing the contribution rate tables, and by extending the duration of the unemployment administrative contribution surcharge.

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

Section 1. Section 96.7, subsection 2, paragraph d, subparagraph (2), Code 1993, is amended to read as follows:

(2) The highest benefit cost ratio is the highest of the resulting ratios computed by dividing the total benefits paid, excluding reimbursable benefits paid, during each consecutive twelve-month period, during the ten-year period ending on the computation date, by the total wages, excluding reimbursable employment wages, paid in the four calendar quarters ending nearest and prior to the last day of such twelve-month period; however, the highest benefit cost ratio shall not be less than .02.

Sec. 2. Section 96.7, subsection 2, paragraph d, the contribution rate tables, Code 1993, are amended by striking the contribution rate tables and inserting in lieu thereof the following:

Benefit Ratio Rank	Approximate Cumulative Taxable Payroll Limit	Contribution Rate Tables 1	2	3	4	5	6	7	8
1	4.8%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2	9.5%	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
3	14.3%	0.1	0.1	0.1	0.1	0.1	0.0	0.0	0.0
4	19.0%	0.4	0.3	0.3	0.2	0.1	0.1	0.1	0.1
5	23.8%	0.6	0.5	0.4	0.3	0.3	0.2	0.1	0.1
6	28.6%	0.9	0.8	0.6	0.5	0.4	0.3	0.2	0.1

Benefit Ratio Rank	Approximate Cumulative Taxable Payroll Limit	Contribution Rate Tables 1	2	3	4	5	6	7	8
7	33.3%	1.2	1.0	0.8	0.6	0.5	0.4	0.3	0.2
8	38.1%	1.5	1.3	1.0	0.8	0.6	0.5	0.3	0.2
9	42.8%	1.9	1.5	1.2	0.9	0.7	0.6	0.4	0.3
10	47.6%	2.1	1.8	1.4	1.1	0.8	0.6	0.5	0.3
11	52.4%	2.5	2.0	1.6	1.3	1.0	0.7	0.5	0.3
12	57.1%	3.0	2.4	1.9	1.5	1.1	0.9	0.6	0.4
13	61.9%	3.6	2.9	2.4	1.8	1.4	1.1	0.8	0.5
14	66.6%	4.4	3.6	2.9	2.2	1.7	1.3	1.0	0.6
15	71.4%	5.3	4.3	3.5	2.7	2.0	1.6	1.1	0.7
16	76.2%	6.3	5.2	4.1	3.2	2.4	1.9	1.4	0.9
17	80.9%	7.0	6.4	5.2	4.0	3.0	2.3	1.7	1.1
18	85.7%	7.5	7.5	7.0	5.4	4.1	3.1	2.3	1.5
19	90.4%	8.0	8.0	8.0	7.3	5.6	4.2	3.1	2.0
20	95.2%	8.5	8.5	8.5	8.0	7.6	5.8	4.3	2.8
21	100.0%	9.0	9.0	9.0	9.0	8.5	8.0	7.5	7.0

Sec. 3. Section 96.7, subsection 12, paragraph d, Code 1993, is amended to read as follows:

d. This subsection is repealed July 1, ~~1994~~ 1998, and the repeal is applicable to contribution rates for calendar year ~~1995~~ 1999 and subsequent calendar years.

Approved April 6, 1993

CHAPTER 24

SANITARY DISTRICT TRUSTEES

S.F. 315

AN ACT relating to the selection of trustees for sanitary districts, and providing for retroactive applicability and an effective date.

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

Section 1. Section 358.9, unnumbered paragraphs 1 and 3, Code 1993, are 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 shall be ~~chosen~~ elected by special

election or at a special meeting of the board of trustees called for that purpose. ~~After~~ For each special election called 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.

~~However, for districts formed after July 1, 1984~~ In lieu of a special election, successors to ~~the initial~~ trustees shall be elected at ~~the next general election or at an annual~~ a special meeting of the board of trustees called for that purpose. Upon its own motion, the board of trustees may, or upon petition of ~~a majority of the~~ landowners owning more than fifty percent of the total land in the district, ~~the board of trustees~~ shall, call ~~an annual~~ a special meeting of the residents of the district to elect successors to trustees of the board. ~~Vacancies shall be filled by the remaining trustees in the same manner as city council members as provided in section 372.13, subsection 2~~ Notice of the meeting shall be given at least ten days before the date of the meeting by publication of the notice in a newspaper of general circulation in the district. The notice shall state the date, times, and location of the meeting and that the meeting is called for the purpose of electing one or more trustees to the board.

Sec. 2. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

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

2. Section 1 of this Act is retroactive to January 1, 1993, and applicable on and after that date for any vacancies occurring on the board of trustees of a sanitary district.

Approved April 12, 1993

CHAPTER 25

OPEN MEETINGS

S.F. 319

AN ACT relating to records and minutes of public bodies which are subject to public inspection.

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

Section 1. Section 21.2, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. An advisory board, advisory commission, advisory committee, task force, or other body created by statute or executive order of this state or created by an executive order of a political subdivision of this state to develop and make recommendations on public policy issues.

Sec. 2. Section 21.3, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and ~~the~~ information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.

Approved April 15, 1993

CHAPTER 26

ETHANOL STICKERS ON GOVERNMENT VEHICLES

H.F. 88

AN ACT relating to the use of stickers on government vehicles notifying the traveling public that the vehicles are being operated on gasoline blended with ethanol, and providing an effective date.

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

Section 1. Section 18.115, subsection 3, Code 1993, is amended to read as follows:

3. The state vehicle dispatcher shall install a record system for the keeping of records of the total number of miles state-owned motor vehicles are driven and the per-mile cost of operation of each motor vehicle. Every state officer or employee shall keep a record book to be furnished by the state vehicle dispatcher in which the officer or employee shall enter all purchases of gasoline, lubricating oil, grease, and other incidental expense in the operation of the motor vehicle assigned to the officer or employee, giving the quantity and price of each purchase, including the cost and nature of all repairs on the motor vehicle. Each operator of a state-owned motor vehicle shall promptly prepare a report at the end of each month on forms furnished by the state vehicle dispatcher and forward the same to the dispatcher at the statehouse, giving the information the state vehicle dispatcher may request in the report. The state vehicle dispatcher shall each month compile the costs and mileage of state-owned motor vehicles from the reports and keep a cost history card on each motor vehicle and the costs shall be reduced to a cost-per-mile basis for each motor vehicle. It shall be the duty of the state vehicle dispatcher to call to the attention of the head of any department to which a motor vehicle has been assigned any evidence of the mishandling or misuse of any state-owned motor vehicle which is called to the dispatcher's attention. A motor vehicle operated under this subsection shall not operate on gasoline other than gasoline blended with at least ten percent ethanol, unless under emergency circumstances. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol, if commercially available. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 2. Section 216B.3, subsection 15, Code 1993, is amended to read as follows:

15. A motor vehicle purchased by the commission shall not operate on gasoline other than gasoline blended with at least ten percent ethanol. A state issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 3. Section 260C.19A, Code 1993, is amended to read as follows:

260C.19A MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased by or used under the direction of the board of directors to provide services to a merged area shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 4. Section 262.25A, subsection 2, Code 1993, is amended to read as follows:

2. A motor vehicle purchased by the institutions shall not operate on gasoline other than gasoline blended with at least ten percent ethanol. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 5. Section 279.34, Code 1993, is amended to read as follows:

279.34 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased by or used under the direction of the board of directors to provide services to a school corporation shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 6. Section 307.21, subsection 4, paragraph d, Code 1993, is amended to read as follows:

d. A motor vehicle purchased by the administrator shall not operate on gasoline other than gasoline blended with at least ten percent ethanol. A state-issued credit card used to purchase gasoline shall not be valid to purchase gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 7. Section 331.908, Code 1993, is amended to read as follows:

331.908 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased or used by a county to provide county services shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

Sec. 8. Section 364.20, Code 1993, is amended to read as follows:

364.20 MOTOR VEHICLES REQUIRED TO OPERATE ON ETHANOL-BLENDED GASOLINE.

A motor vehicle purchased or used by a city to provide city services shall not, on or after January 1, 1993, operate on gasoline other than gasoline blended with at least ten percent ethanol. The motor vehicle shall also be affixed with a brightly visible sticker which notifies the traveling public that the motor vehicle is being operated on gasoline blended with ethanol. However, the sticker is not required to be affixed to an unmarked vehicle used for purposes of providing law enforcement or security.

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

Approved April 20, 1993

CHAPTER 27

LEWIS AND CLARK RURAL WATER SYSTEM
H.F. 133

AN ACT authorizing the governor to obtain financial support for the construction of a rural water system.

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

Section 1. LEWIS AND CLARK RURAL WATER SYSTEM – AUTHORITY TO NEGOTIATE.

1. The governor or an agency designated by the governor may contact the congress of the United States and enter into negotiations with appropriate officials and agencies of the United States for purposes of obtaining financial support for the construction of the proposed Lewis and Clark rural water system, for the following purposes:

a. To provide safe and adequate municipal and rural water supplies for residential, agricultural, and industrial use.

b. To preserve wetlands and mitigate water conservation efforts in the counties of Lyon, Osceola, Dickinson, Sioux, O'Brien, Clay, and Plymouth.

2. In carrying out this Act, the governor may cooperate with persons acting as local sponsors of the proposed Lewis and Clark rural water system. The general assembly may appropriate up to twenty-five percent of the financing required for construction for a period of ten or fewer years. Persons acting as local sponsors may contribute moneys in combination with the state in order to match moneys provided by the United States. The amount contributed by the state shall be subject to an express appropriation made by the general assembly.

Approved April 20, 1993

CHAPTER 28

BANKING REGULATION
H.F. 207

AN ACT relating to the authority of the superintendent of banking to remove a director or officer of a state bank, providing for the continued suspension of certain banking laws, and providing for the retroactive applicability of the Act.

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

Section 1. Section 524.606, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~When~~ If, in the opinion of the superintendent any director of a state bank has violated any law relating to such state bank or has engaged in unsafe or unsound practices in conducting the business of such state bank, the superintendent may cause notice to be served upon such director, to appear before the superintendent to show cause why the director should not be removed from office. A copy of such notice shall be sent to each director of the state bank affected, by registered or certified mail. If, after granting the accused director a reasonable opportunity to be heard, the superintendent finds that the director violated any law relating to such state bank or engaged in unsafe or unsound practices in conducting the business of such state bank, the superintendent, in the superintendent's discretion, may order that such director be removed from office. A copy of the order shall be served upon such director and upon the state bank of which the person is a director at which time the person shall cease

to be a director of the state bank. The resignation, termination of employment, or separation of such director, including a separation caused by the closing of the state bank at which the person serves as a director, does not affect the jurisdiction and authority of the superintendent to cause notice to be served and proceed under this subsection against the director, if the notice is served before the end of the six-year period beginning on the date the director ceases to be a director with the bank.

Sec. 2. 1990 Iowa Acts, chapter 1274, unnumbered paragraph 1 after the enacting clause, as amended by 1991 Iowa Acts, chapter 220, section 7, and as amended by 1992 Iowa Acts, chapter 1161, 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, ~~1993~~ 1994. On and after July 1, ~~1993~~ 1994, the restrictions in Code chapter 524 shall be applied as though acquisitions made pursuant to this resolution had not been made.

Sec. 3. Section 1 of this Act applies retroactively to July 1, 1987, and is applicable on and after that date.

Approved April 20, 1993

CHAPTER 29

FARM MEDIATION AND LEGAL ASSISTANCE TO FARMERS

H.F. 365

AN ACT relating to farm mediation and legal assistance to farmers, by extending the effectiveness of provisions, and providing an effective date.

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

Section 1. Section 13.25, Code 1993, 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. 2. Section 654A.17, Code 1993, is amended to read as follows:
654A.17 REPEAL OF CHAPTER.
This chapter is repealed on July 1, ~~1993~~ 1995.

Sec. 3. Section 654B.12, Code 1993, is amended to read as follows:
654B.12 REPEAL OF CHAPTER.
This chapter is repealed on July 1, ~~1993~~ 1995.

Sec. 4. 1990 Iowa Acts, chapter 1143, section 32, subsection 2, is amended to read as follows:
2. Sections 28 and 29 of this Act take effect on July 1, ~~1993~~ 1995.

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

Approved April 20, 1993

CHAPTER 30

REAL ESTATE TRANSFERS – DISCLOSURE STATEMENTS
H.F. 636

AN ACT relating to information regarding real estate, by providing for the filing of reports, and transfer of certain real estate and providing effective dates.

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

Section 1. Section 543B.9, Code 1993, is amended to read as follows:
543B.9 RULES.
The real estate commission ~~is empowered to promulgate~~ may adopt rules to carry out and administer the provisions of this chapter ~~consistent therewith~~. ~~Said~~ The commission may carry on a program of education of real estate practices and matters relating ~~thereto~~ to real estate. The commission shall adopt rules necessary to carry out the provisions of chapter 558A relating to the disclosure of information before the transfer of real estate.

Sec. 2. Section 543B.46, subsection 6, Code 1993, is amended to read as follows:
6. The commission ~~will~~ shall 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~~ a 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.~~

Sec. 3. NEW SECTION. 558A.1 DEFINITIONS.
As used in this chapter, unless the context otherwise requires:
1. "Broker" means a real estate broker licensed pursuant to chapter 543B.
2. "Commission" means the real estate commission created pursuant to section 543B.8.
3. "Salesperson" means a salesperson licensed pursuant to chapter 543B.
4. "Transfer" means the transfer or conveyance by sale, exchange, real estate contract, or any other method by which real estate and improvements are purchased, if the property includes at least one but not more than four dwelling units. However, a transfer does not include any of the following:
a. A transfer made pursuant to a court order, including but not limited to a transfer under chapter 633, the execution of a judgment, the foreclosure of a real estate mortgage pursuant to chapter 654, the forfeiture of a real estate contract under chapter 656, a transfer by a trustee in bankruptcy, a transfer by eminent domain, or a transfer resulting from a decree for specific performance.
b. A transfer to a mortgagee by a mortgagor or successor in interest who is in default, or a transfer by a mortgagee who has acquired real property at a sale conducted pursuant to chapter 654, a transfer back to a mortgagor exercising a right of first refusal pursuant to section 654.16A, a nonjudicial voluntary foreclosure procedure under section 654.18 or chapter 655A, or a deed in lieu of foreclosure under section 654.19.

c. A transfer by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

d. A transfer between joint tenants or tenants in common.

e. A transfer made to a spouse, or to a person in the lineal line of consanguinity of a person making the transfer.

f. A transfer between spouses resulting from a decree of dissolution of marriage, a decree of legal separation, or a property settlement agreement which is incidental to the decree, including a decree ordered pursuant to chapter 598.

g. A transfer to or from the state, a political subdivision of the state, another state, or the United States.

h. A transfer by quitclaim deed.

5. "Transferee" means a person who is acquiring real property as provided in an instrument containing the power to transfer real estate, including an instrument described in section 558.1.

6. "Transferor" means a person who is transferring real property as provided in an instrument containing the power to transfer real estate, including an instrument described in section 558.1.

Sec. 4. NEW SECTION. 558A.2 PROCEDURES.

1. A person interested in transferring real property, or a broker or salesperson acting on behalf of the person, shall deliver a written disclosure statement to a person interested in being transferred the real property. The disclosure statement must be delivered prior to either the tranferor* making a written offer for the transfer of the real property, or accepting a written offer for the transfer of the real property.

2. The disclosure statement shall be made by personal delivery or by certified or registered mail to the transferee. The delivery may be made to the spouse of the transferee, unless otherwise provided by the parties. If the disclosure statement is not timely delivered, the transferee may withdraw the offer or revoke the acceptance without liability, within three days following personal delivery of the statement or five days following delivery by mail.

3. The disclosure statement may be filed with the county recorder with instruments affecting the transfer of real estate. However, the failure to file the statement shall not cause a defect in the title to the property.

Sec. 5. NEW SECTION. 558A.3 GOOD FAITH AND AMENDMENTS.

1. All information required by this section and rules adopted by the commission shall be disclosed in good faith. If at the time the disclosure is required to be made, information required to be disclosed is not known or available to the transferor, and a reasonable effort has been made to ascertain the information, an approximation of the information may be used. The information shall be identified as an approximation. The approximation shall be based on the best information available at the time.

2. A disclosure statement shall be amended, if information disclosed in the statement is or becomes inaccurate or misleading, or is supplemented. The amended statement shall be subject to the same procedures as the original disclosure statement as provided in this chapter. However, the statement is not required to be amended if either of the following applies:

a. The information disclosed in conformance with this chapter is subsequently rendered inaccurate as a result of an act, occurrence, or agreement subsequent to the delivery of the disclosure statement.

b. The information is based on information of a public agency, including the state, a political subdivision of the state, or the United States. The information shall be deemed to be accurate and complete, unless the transferor or the broker or salesperson has actual knowledge of an error, inaccuracy, or omission, or fails to exercise ordinary care in obtaining the information.

Sec. 6. NEW SECTION. 558A.4 REQUIRED INFORMATION.

1. The disclosure statement shall include information relating to the condition and important characteristics of the property and structures located on the property, including significant defects in the structural integrity of the structure, as provided in rules which shall be

*According to enrolled Act

adopted by the real estate commission pursuant to section 543B.9. The rules may require the disclosure to include information relating to the property's zoning classification; the condition of plumbing, heating, or electrical systems; or the presence of pests.

2. The disclosure statement may include a report or written opinion prepared by a person qualified to make judgment based on education or experience, as provided by rules adopted by the commission, including but not limited to a land surveyor licensed pursuant to chapter 542B, a geologist, a structural pest control operator licensed pursuant to section 206.6, or a building contractor. The report or opinion on a matter within the scope of the person's practice, profession, or expertise shall satisfy the requirements of this section or rules adopted by the commission regarding that matter required to be disclosed. If the report or opinion is in response to a request made for purposes of satisfying the disclosure statement, the report or opinion shall indicate which part of the disclosure statement the report or opinion satisfies.

Sec. 7. NEW SECTION. 558A.5 AGENCY.

1. A person other than a broker or salesperson acting in the capacity of an agent in the transfer of real property shall not be deemed to be an agent of the transferor or transferee for purposes of this chapter, unless the person is granted powers of attorney or is empowered as an agent, as expressly provided in writing, and is subject to any other applicable requirements as provided by law.

2. A broker or salesperson representing the transferor shall deliver the disclosure statement to the transferee as required in section 558A.2, unless the transferor or transferee has instructed the broker or salesperson otherwise in writing.

Sec. 8. NEW SECTION. 558A.6 LIABILITY UNDER THE CHAPTER.

A person who violates this chapter shall be liable to a transferee for the amount of actual damages suffered by the transferee, but subject to the following limitations:

1. The transferor, or a broker or salesperson, shall not be liable under this chapter for the error, inaccuracy, or omission in information required in a disclosure statement, unless that person has actual knowledge of the inaccuracy, or fails to exercise ordinary care in obtaining the information.

2. The person submitting a report or opinion within the scope of the person's practice, profession, or expertise, as provided in section 558A.4, for purposes of satisfying the disclosure statement, shall not be liable under this chapter for any matter other than a matter within the person's practice, profession, or expertise, and which is required by the disclosure statement, unless the person failed to use care ordinary in the person's profession, practice, or area of expertise in preparing the information.

Sec. 9. NEW SECTION. 558A.7 CHAPTER IS NOT LIMITING.

The duties imposed upon persons under this chapter or under rules adopted by the real estate commission shall not limit or abridge any duty, requirement, obligation, or liability for disclosure created by another provision of law, or under a contract between parties.

Sec. 10. NEW SECTION. 558A.8 VALIDITY OF A TRANSFER.

A transfer under this chapter shall not be invalidated solely because of a failure of a person to comply with a provision of this chapter.

Sec. 11. EFFECTIVE DATE – DIRECTION TO CODE EDITOR – IMPLEMENTATION.

1. Except as provided in this section, this Act shall become effective on July 1, 1994.

2. The Code editor is directed to codify this Act in the 1993 Code Supplement and provide necessary footnotes.

3. The real estate commission is directed to begin the adoption of rules necessary to implement this Act, upon enactment.

4. This section is effective upon enactment.

Approved April 20, 1993

CHAPTER 31

WEAPONS PERMITS

S.F. 59

AN ACT relating to prohibiting fire fighters and certain emergency medical services personnel from being required to obtain a professional permit to carry weapons as a condition of employment.

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

Section 1. Section 724.6, Code 1993, is amended to read as follows:

724.6 PROFESSIONAL PERMIT TO CARRY WEAPONS.

1. A person may be issued a permit to carry weapons when the person's employment in a private investigation business or private security business licensed under chapter 80A, or a person's employment as a peace officer, correctional officer, security guard, bank messenger or other person transporting property of a value requiring security, or in police work, reasonably justifies that person going armed. The permit shall be on a form prescribed and published by the commissioner of public safety, shall identify the holder, and shall state the nature of the employment requiring the holder to go armed. A permit so issued, other than to a peace officer, shall authorize the person to whom it is issued to go armed anywhere in the state, only while engaged in the employment, and while going to and from the place of the employment. A permit issued to a certified peace officer shall authorize that peace officer to go armed anywhere in the state at all times. Permits shall expire twelve months after the date when issued except that permits issued to peace officers and correctional officers are valid through the officer's period of employment unless otherwise canceled. When the employment is terminated, the holder of the permit shall surrender it to the issuing officer for cancellation.

2. Notwithstanding subsection 1, fire fighters, as defined in section 411.1, subsection 9, airport fire fighters included under section 97B.49, subsection 16, paragraph "d", subparagraph (4), emergency medical technicians-ambulance and emergency rescue technicians, as defined in section 147.1, and advanced emergency medical care providers, as defined in section 147A.1, shall not, as a condition of employment, be required to obtain a permit under this section. However, the provisions of this subsection shall not apply to a person designated as an arson investigator by the chief fire officer of a political subdivision.

Approved April 22, 1993

CHAPTER 32

EMPLOYMENT OF SCHOOL ADMINISTRATORS

H.F. 104

AN ACT relating to the employment of administrators by school districts and area education agencies.

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

Section 1. Section 279.21, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section and sections 279.23, 279.23A, 279.24, and 279.25, the term "principal" includes school principals, associate principals, and assistant principals.

Sec. 2. Section 279.23, subsection 1, and unnumbered paragraph 3, Code 1993, are amended to read as follows:

1. The term of employment which for all administrators except for superintendents may be a term of up to two years. Superintendents may be employed under section 279.20 for a term not to exceed three years.

~~An~~ Except as otherwise specifically provided, an administrator's contract shall be governed by the provisions of this section and sections 279.23A, 279.24, and 279.25 and not by section 279.13. For purposes of this section and sections 279.23A, 279.24, and 279.25, the term "administrator" includes school superintendents, assistant superintendents, educational directors employed by school districts for grades kindergarten through twelve, educational directors employed by area education agencies under chapter 273, principals, assistant principals, ~~and~~ other certified school supervisors employed by school districts for grades kindergarten through twelve as defined under section 20.4, and other certified school supervisors employed by area education agencies under chapter 273.

Sec. 3. Section 279.24, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An administrator's contract shall remain in force and effect for the period stated in the contract. The contract shall be automatically continued in force and effect for ~~one year~~ additional one-year periods beyond the end of its original term, except ~~as~~ and until the contract is modified or terminated by mutual agreement of the board of directors and the administrator, or until terminated as ~~hereinafter~~ provided by this section.

Sec. 4. Section 279.24, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. If the board of directors is considering termination of an administrator's contract, prior to any formal action, the board may arrange to meet in closed session, in accordance with the provisions of section 21.5, with the administrator and the administrator's representative. The board shall review the administrator's evaluation, review the reasons for nonrenewal, and give the administrator an opportunity to respond. If, following the closed session, the board of directors and the administrator are unable to mutually agree to a modification or termination of the administrator's contract, or the board of directors and the administrator are unable to mutually agree to enter into a one-year nonrenewable contract, the board of directors shall follow the procedures in this section.

Approved April 22, 1993

CHAPTER 33

RECORDING OF INSTRUMENTS AFFECTING REAL ESTATE

H.F. 217

AN ACT relating to the recording of instruments affecting real estate and providing an applicability date.

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

Section 1. Section 558.41, Code 1993, is amended to read as follows:

558.41 RECORDING.

~~No~~ An instrument affecting real estate is of ~~any~~ no validity against subsequent purchasers for a valuable consideration, without notice, or against the state or any of its political subdivisions during and after condemnation proceedings against the real estate, unless the instrument is filed and recorded in the ~~office of the recorder of the~~ county in which the ~~same lies~~ real estate is located, as ~~hereinafter~~ provided in this chapter.

Sec. 2. This Act applies to condemnation proceedings beginning on or after the effective date of this Act.

Approved April 22, 1993

CHAPTER 34

HEALTH COVERAGE FOR WELL-CHILD CARE
H.F. 236

AN ACT relating to providing well-child care under group accident and sickness insurance, group nonprofit health service plans, and prepaid group plans of health maintenance organizations.

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

Section 1. Section 514H.7A, Code 1993, is amended to read as follows:

514H.7A COMMISSIONER'S AUTHORITY.

1. Upon the commissioner's determination under section 514H.7, subsection 1, paragraph "b", to include ~~well-baby~~ well-child 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~~ well-child 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~~ b. 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 abnormalities, injuries, or illnesses arising within the ~~well-baby~~ well-child coverage period.

3. Well-child care coverage as provided for in this section applies to an individual under seven years of age.

Approved April 22, 1993

CHAPTER 35

COMMUNITY COLLEGES — MERGED AREA ANNUAL ELECTIONS
H.F. 366

AN ACT relating to merged area annual elections.

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

Section 1. Section 260C.15, subsection 4, Code 1993, is amended to read as follows:

4. The votes cast in the election shall be canvassed and abstracts of the votes cast shall be certified as required by section 277.20. In each county whose commissioner of elections is

responsible under section 47.2 for conducting elections held for a merged area, the county board of supervisors shall convene ~~at ten o'clock a.m.~~ on the last Monday in September or at the last regular board meeting in September, canvass the abstracts of votes cast and declare the results of the voting. The commissioner shall at once issue certificates of election to each person declared elected, and shall certify to the merged area board in substantially the manner prescribed by section 50.27 the result of the voting on any public question submitted to the voters of the merged area. Members elected to the board of directors of a merged area shall qualify by taking the oath of office prescribed in section 277.28.

Approved April 22, 1993

CHAPTER 36

APPROVAL OF SATELLITE BANKING TERMINALS

H.F. 415

AN ACT relating to the authority to approve the establishment of satellite banking terminals.

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

Section 1. Section 527.5, subsection 7, Code 1993, is amended to read as follows:

7. If the administrator deems the informational statement or any amendment to that statement or amendment to be complete and finds no grounds for denying establishment of a satellite terminal, the administrator may notify the person filing the informational statement that the administrator has expressly approved the establishment and operation of the satellite terminal as described in the informational statement or amendment and according to the agreements attached to the statement or amendment. Operation of the satellite terminal may commence immediately upon a person receiving such express approval from the administrator. If the administrator finds grounds, under any applicable law or rule, for denying establishment of a satellite terminal the administrator shall notify the person filing the informational statement or an amendment thereto, within thirty days of the filing thereof, of the existence of such grounds. If such notification is not given by the administrator, the administrator shall be considered to have expressly approved the establishment and operation of the satellite terminal as described in the informational statement or amendment and according to the agreements attached thereto, and operation of the satellite terminal in accordance therewith may commence on or after the thirtieth day following such filing. However, this subsection shall not be construed to prohibit the administrator from enforcing the provisions of this chapter, nor shall it be construed to constitute a waiver of any prohibition, limitation, or obligation imposed by this chapter.

Approved April 22, 1993

CHAPTER 37

TRANSACTIONS WITH RETAILER INVOLVING SATELLITE TERMINAL
H.F. 578

AN ACT relating to certain transactions with a retailer involving a satellite terminal and providing an effective date.

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

Section 1. Section 527.5, subsection 13, Code 1993, is amended to read as follows:

13. Effective July 1, ~~1993~~ 1994, any transaction engaged in with a retailer through a satellite terminal located in this state by means of an access device which results in a debit to a customer asset account shall be cleared and paid at par to the retailer during the settlement of such transaction to the retailer. Processing fees and charges for such transactions to the retailer shall not be based on a percentage of the amount of the transaction. All accounting documents reflecting such fees and charges shall separately identify transactions which have resulted in a debit to a customer asset account and the charges imposed. The provisions of this subsection shall apply to all satellite terminals, including limited-function terminals and multiple use terminals.

Sec. 2. This Act being deemed of immediate importance, is effective upon enactment.

Approved April 22, 1993

CHAPTER 38

HARVESTING OF WILD GINSENG
H.F. 89

AN ACT providing penalties for the harvesting of wild ginseng out of season.

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

Section 1. Section 456A.24, subsection 11, Code 1993, is amended to read as follows:

11. Establish a program governing the harvesting and sale of American ginseng subject to the convention on international trade in endangered species of wild fauna and flora and adopt rules providing for the time and conditions for ~~the~~ harvesting ~~of~~ the ginseng, the registration of dealers and exporters, the records kept by dealers and exporters, and the certification of legal taking. The time for harvesting of wild ginseng shall not begin before September ~~15~~ 1 or extend beyond November 1. A person violating this section or rules adopted by the department pursuant to this section is subject to a scheduled fine pursuant to section 805.8.

Sec. 2. Section 481A.130, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition to any other penalty, a person convicted of unlawfully harvesting wild ginseng in violation of section 456A.24 shall reimburse the state at one hundred fifty percent of the ginseng's market value, as determined by the department.

Sec. 3. Section 805.8, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. For a violation of section 456A.24, subsection 11, the scheduled fine is one hundred dollars.

Approved April 26, 1993

CHAPTER 39

LIMITED LIABILITY COMPANIES

H.F. 327

AN ACT relating to limited liability companies.

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

Section 1. Section 9H.1, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

"Actively engaged in farming" means that a natural person who is a shareholder and an officer, director or employee of the corporation or who is a member or manager of the limited liability company either:

Sec. 2. Section 9H.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "Authorized limited liability company" means a limited liability company other than a family farm limited liability company founded for the purpose of farming and the ownership of agricultural land in which all of the following apply:

a. The members do not exceed twenty-five in number.

b. The members are all natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or nonprofit corporations.

Sec. 3. Section 9H.1, subsection 5, Code 1993, is amended to read as follows:

5. ~~The term "beneficial~~ "Beneficial ownership" includes interests held by a nonresident alien individual directly or indirectly holding or acquiring a ten percent or greater share in the partnership, limited partnership, corporation, limited liability company, or trust, or directly or indirectly through two or more such entities. In addition, the term beneficial ownership shall include interests held by all nonresident alien individuals if the nonresident alien individuals in the aggregate directly or indirectly hold or acquire twenty-five percent or more of the partnership, limited partnership, corporation, limited liability company, or trust.

Sec. 4. Section 9H.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Family farm limited liability company" means a limited liability company which meets all of the following conditions:

a. The limited liability company is founded for the purpose of farming and the ownership of agricultural land in which the majority of the members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related.

b. All of the members of the limited liability company are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts.

c. Sixty percent of the gross revenues of the limited liability company over the last consecutive three-year period comes from farming.

Sec. 5. Section 9H.2, unnumbered paragraph 1, Code 1993, 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, or limited liability company 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. Section 9H.2, subsection 2, Code 1993, is amended to read as follows:

2. Specify the month for the delivery, and shall allow the farmer to set the week for the delivery within such month and the processor, ~~or~~ limited partnership, or limited liability company to set the date for delivery within such week. This section shall not prevent processors or educational institutions from carrying on legitimate research, educational, or demonstration activities, nor shall it prevent processors from owning and operating facilities to provide normal care and feeding of animals for a period not to exceed ten days immediately prior to slaughter, or for a longer period in an emergency. Any processor or limited partnership which owns, controls, or operates a feedlot on August 15, 1975 shall have until July 1, 1985 to dispose of the property.

Sec. 7. Section 9H.4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~No~~ A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liability company, family trust, authorized trust or testamentary trust shall not, either directly or indirectly, acquire or otherwise obtain or lease any agricultural land in this state. However, the restrictions provided in this section shall not apply to the following:

Sec. 8. Section 9H.4, subsection 2, paragraph a, Code 1993, is amended to read as follows:

a. Research and experimental activities are undertaken on the agricultural land and commercial sales of products produced from farming the agricultural land do not occur or are incidental to the research or experimental purposes of the corporation or limited liability company. Commercial sales are incidental to the research or experimental purposes of the corporation or limited liability company when such sales are less than twenty-five percent of the gross sales of the primary product of the research.

Sec. 9. Section 9H.4, subsection 2, paragraph c, Code 1993, is amended to read as follows:

c. The agricultural land is used by a corporation, or limited liability company, including any trade or business which is under common control, as provided in 26 U.S.C. § 414 for the primary purpose of testing, developing, or producing animals for sale or resale to farmers as breeding stock. However, after July 1, 1989, to qualify under this paragraph, the following conditions must be satisfied:

(1) The corporation or limited liability company must not hold the agricultural land other than as a lessee. The term of the lease must be for not more than twelve years. The corporation or limited liability company shall not renew a lease. The corporation or limited liability company shall not enter into a lease under this paragraph, if the corporation or limited liability company has ever entered into another lease under this paragraph "c", whether or not the lease is in effect. However, this subparagraph does not apply to a domestic corporation organized under chapter 504 or 504A.

(2) A term or condition of sale, including resale, of breeding stock must not relate to the direct or indirect control by the corporation or limited liability company of the breeding stock or breeding stock progeny subsequent to the sale.

(3) The number of acres of agricultural land held by the corporation or limited liability company must not exceed six hundred forty acres.

(4) The corporation or limited liability company must deliver a copy of the lease to the secretary of state. The secretary of state shall notify the lessee of receipt of the copy of the

lease. However, this subparagraph does not apply to a domestic corporation organized under chapter 504 or 504A.

Culls and test animals may be sold under this paragraph "c". For a three-year period beginning on the date that the corporation or limited liability company acquires an interest in the agricultural land, the gross sales for any year shall not be greater than five hundred thousand dollars. After the three-year period ends, the gross sales for any year shall not be greater than twenty-five percent of the gross sales for that year of the breeding stock, or five hundred thousand dollars, whichever is less.

Sec. 10. Section 9H.4, subsection 4, Code 1993, is amended to read as follows:

4. Agricultural land acquired by a corporation or limited liability company for immediate or potential use in nonfarming purposes.

Sec. 11. Section 9H.4, subsection 5, Code 1993, is amended to read as follows:

5. Agricultural land acquired by a corporation or limited liability company by process of law in the collection of debts, or pursuant to a contract for deed executed prior to August 15, 1975, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise.

Sec. 12. Section 9H.4, subsection 8, Code 1993, is amended to read as follows:

8. A corporation or its subsidiary organized under chapter 490 or a limited liability company organized under chapter 490A and to which section 312.8 is applicable.

Sec. 13. Section 9H.4, unnumbered paragraph 2, Code 1993, is amended to read as follows:

A corporation, limited liability company, or trust, other than a family farm corporation, authorized farm corporation, family farm limited liability company, authorized limited liability company, family trust, authorized trust or testamentary trust, violating this section shall be assessed a civil penalty of not more than twenty-five thousand dollars and shall divest itself of any land held in violation of this section within one year after judgment. The courts of this state may prevent and restrain violations of this section through the issuance of an injunction. The attorney general or a county attorney shall institute suits on behalf of the state to prevent and restrain violations of this section.

Sec. 14. Section 9H.5, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An authorized farm corporation, authorized limited liability company, or authorized trust shall not, on or after July 1, 1987, and a limited partnership other than a family farm limited partnership shall not, on or after July 1, 1988, either directly or indirectly, acquire or otherwise obtain or lease agricultural land, if the total agricultural land either directly or indirectly owned or leased by the authorized farm corporation, authorized limited liability company, limited partnership, or authorized trust would then exceed one thousand five hundred acres.

Sec. 15. Section 9H.5, subsection 2, Code 1993, is amended to read as follows:

2. A person shall not, after July 1, 1988, become a stockholder of an authorized farm corporation, a beneficiary of an authorized trust, member of an authorized limited liability company, or a limited partner in a limited partnership which owns or leases agricultural land if the person is also any of the following:

a. A stockholder of an authorized farm corporation.

b. A beneficiary of an authorized trust.

c. A limited partner in a limited partnership which owns or leases agricultural land.

d. A member of an authorized limited liability company.

However, this subsection shall not apply to limited partners in a family farm limited partnership.

Sec. 16. Section 9H.5, subsection 3, paragraph a, Code 1993, is amended to read as follows:

a. An authorized farm corporation, authorized trust, authorized limited liability company,

or limited partnership violating this section shall be assessed a civil penalty of not more than twenty-five thousand dollars and shall divest itself of any land held in violation of this section within one year after judgment. A civil penalty of not more than one thousand dollars may be imposed on a person who becomes a stockholder of an authorized farm corporation, beneficiary of an authorized trust, member of an authorized limited liability company, or limited partner in a limited partnership in violation of this section. The person shall divest the interest held by the person in the corporation, trust, limited liability company, or limited partnership to comply with this section. The court may determine the method of divesting an interest held by a person found to be in violation of this chapter. A financial gain realized by a person who disposes of an interest held in violation of this chapter shall be forfeited to the state's general fund. All court costs and fees shall be paid by the person holding the interest in violation of this chapter.

Sec. 17. Section 9H.5A, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. A person who is a member, manager, or authorized representative of a limited liability company, other than a family farm limited liability company, including an authorized limited liability company, owning or leasing agricultural land or engaged in farming in this state.

Sec. 18. Section 9H.5A, subsection 3, Code 1993, is amended to read as follows:

3. The report shall contain information for the last year regarding the reporting entity's corporation, limited partnership, limited liability company, or trust, and the agricultural land owned, leased, or held. However, this subsection shall not apply to a family farm corporation, a family farm limited partnership, a family farm limited liability company, or a family trust. The report shall contain the following information, if applicable:

a. Whether the reporting entity represents a corporation, trust, limited liability company, or limited partnership. If the reporting entity represents a corporation or limited liability company the report shall specify if the corporation or limited liability company is foreign or domestic, profit or nonprofit, or an authorized farm corporation or authorized limited liability company. If the reporting entity represents a trust the report shall specify if the trust is an authorized trust.

b. The name of the reporting entity and the name and address of the person supervising the daily operations on the agricultural land.

c. The name, address, and citizenship if not from the United States, of each shareholder, limited partner, member, or beneficiary of a corporation, trust, limited liability company, or limited partnership.

d. The total approximate number of acres, and the approximate number of acres by named county, of agricultural land which is owned, leased, or held by the corporation, trust, limited liability company, or limited partnership.

e. The approximate number of acres of agricultural land which is owned and operated by the corporation, limited liability company, or limited partnership; the approximate number of acres of agricultural land which is leased by the corporation, limited liability company, limited partnership, or trust as a lessee; the approximate number of acres of agricultural land which is leased from the corporation, limited liability company, limited partnership, or trust as a lessor; and the approximate number of acres of agricultural land which is held in fee and operated by a trust.

f. The approximate number of acres of agricultural land which the corporation, limited liability company, trust, or limited partnership used for the production of row crops.

g. The approximate number of livestock, including cattle, sheep, swine, or poultry, owned, contracted for, or kept by the corporation, limited liability company, trust, or limited partnership, and the approximate number of offspring produced from the livestock.

Sec. 19. Section 9H.10, Code 1993, is amended to read as follows:

9H.10 SIGNING REPORTS.

Reports by corporations shall be signed by the president or other officer or authorized representative. Reports by limited liability companies shall be signed by a manager or other

authorized representative. Reports by limited partnerships shall be signed by the president or other authorized representative of the partnership. Reports by individuals shall be signed by the individual or an authorized representative.

Sec. 20. Section 9H.14, Code 1993, is amended to read as follows:

9H.14 DUTIES OF SECRETARY OF STATE.

The secretary of state shall notify the attorney general when the secretary of state has reason to believe a violation of this chapter has occurred. It is the intent of this section that information shall be made available to members of the general assembly and appropriate committees of the general assembly in order to determine the extent of farming being carried out in this state by corporations and other business entities and the effect of such farming practices upon the economy of this state. The reports of corporations, limited liability companies, limited partnerships, trusts, contractors, and processors required in this chapter shall be confidential reports except as to the attorney general for review and appropriate action when necessary. The secretary of state shall assist any committee of the general assembly existing or established for the purposes of studying the effects of this chapter and the practices this chapter seeks to study and regulate.

Sec. 21. Section 490A.124, subsection 1, paragraph u, Code 1993, is amended to read as follows:

u. Application for certificate of ~~withdrawal~~ cancellation ..... $ 10

Sec. 22. Section 490A.202, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 17. a. Except as provided in paragraph "d", indemnify an individual made a party to a proceeding because the individual is or was a member or manager against liability incurred in the proceeding if all of the following apply:

(1) The individual acted in good faith.

(2) The individual reasonably believed:

(a) In the case of conduct in the individual's official capacity with the limited liability company, that the individual's conduct was in the limited liability company's best interests.

(b) In all other cases, that the individual's conduct was at least not opposed to the limited liability company's best interests.

(3) In the case of any criminal proceeding, the individual had no reasonable cause to believe the individual's conduct was unlawful.

b. A member's or manager's conduct with respect to an employee benefit plan for a purpose the member or manager reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of paragraph "a", subparagraph (2), subparagraph subdivision (b).

c. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this subsection.

d. A limited liability company shall not indemnify a member or manager under this subsection in either of the following circumstances:

(1) In connection with a proceeding by or in the right of the limited liability company in which the member or manager was adjudged liable to the limited liability company.

(2) In connection with any other proceeding charging improper personal benefit to the member or manager, whether or not involving action in the member's or manager's official capacity, in which the member or manager was adjudged liable on the basis that personal benefit was improperly received by the member or manager.

e. Indemnification permitted under this subsection in connection with a proceeding by or in the right of the limited liability company is limited to reasonable expenses incurred in connection with the proceeding.

Sec. 23. Section 490A.701, subsection 2, Code 1993, is amended to read as follows:

2. Unless otherwise provided in the articles of organization or an operating agreement, a ~~unanimous~~ majority 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 other than in the ordinary course of business.

c. Merger of the limited liability company with another entity.

~~d. An amendment to the articles of organization or operating agreement.~~

Sec. 24. Section 490A.701, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Unless otherwise provided in the articles of organization or an operating agreement, a unanimous vote shall be required to approve an amendment to the articles of organization or operating agreement.

Sec. 25. Section 490A.702, Code 1993, is amended to read as follows:

490A.702 MANAGEMENT OF LIMITED LIABILITY COMPANY.

1. 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.

2. Unless otherwise provided in the articles of organization and except as provided in subsection 3, every member is an agent of the limited liability company for the purpose of its business or affairs. The act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the ordinary course the business or affairs of the limited liability company shall bind the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge of the fact that the member has no such authority.

3. If the articles of organization provide that management of the limited liability company is vested in a manager or managers the following apply:

a. A member, acting solely in the capacity as a member, is not an agent of the limited liability company.

b. Every manager is an agent of the limited liability company for the purpose of its business or affairs. The act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the ordinary course the business or affairs of the limited liability company shall bind the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge of the fact that the manager has no such authority.

4. An act of a manager or a member which is not apparently for the carrying on in the ordinary course of business of the limited liability company does not bind the limited liability company unless authorized in accordance with the articles of organization or an operating agreement, at the time of the transaction or at any other time.

5. An act of a manager or member in contravention of a restriction on authority shall not bind the limited liability company to persons having knowledge of the restriction.

Sec. 26. Section 490A.704, Code 1993, is amended to read as follows:

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. The articles of organization or an operating agreement may prohibit withdrawal by a member.

Sec. 27. Section 490A.707, Code 1993, is amended to read as follows:

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 to its members or of the members with whom the management of the limited liability company is vested pursuant to section 490A.702, to the limited liability company or to its members for monetary damages for breach of fiduciary duty as a manager or a member with whom management of the limited liability company is vested, if the provision does not eliminate or limit the liability of a manager or a member with whom management of the limited liability company is vested for any of the following:

1. Breach of the manager's or member's duty of loyalty to the limited liability company or to 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 or member 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 or member with whom management of the limited liability company is vested for an act or omission occurring prior to the date when the provision in the articles of organization becomes effective.

Sec. 28. Section 490A.1203, subsection 2, paragraph a, Code 1993, is amended to read as follows:

a. By the ~~unanimous~~ majority 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.

Sec. 29. Section 490A.1206, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Any one or more limited liability companies of this state may merge with or into one or more foreign limited liability companies, foreign corporations, or foreign limited partnerships, or any one or more foreign limited 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:

Sec. 30. Section 490A.1301, subsection 1, Code 1993, is amended to read as follows:

1. At the time or on the happening of an event specified in this chapter or in the articles of organization or an operating agreement to cause dissolution.

Sec. 31. Section 490A.1301, subsection 3, Code 1993, is amended to read as follows:

3. ~~Upon~~ Unless otherwise provided in the articles of organization or an operating agreement, 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 in the manner stated in the articles of organization or an operating agreement or if not so stated, by the unanimous consent of the remaining members.

Sec. 32. Section 490A.1402, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A foreign limited liability company may apply for a certificate of ~~registration~~ authority 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:

Sec. 33. Section 490A.1406, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A foreign limited liability company may cancel its certificate of ~~registration~~ authority by delivering to the secretary of state for filing a certificate of cancellation which shall set forth all of the following:

Sec. 34. Section 490A.1407, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. Holding meetings of the members or managers or carrying on other activities concerning internal ~~corporate~~ company affairs.

Sec. 35. Section 490A.1410, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The certificate of ~~registration~~ authority 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:

Sec. 36. Section 490A.1516, Code 1993, is amended to read as follows:

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~~ two 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. 37. Section 9H.3A, Code 1993, is repealed.

Approved April 26, 1993

CHAPTER 40

INSPECTION AND REGULATION OF LAWN SEED

H.F. 453

AN ACT relating to the inspection and regulation of lawn seed, and providing an effective date.

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

Section 1. Section 199.11, subsection 1, paragraphs a and b, Code 1993, are amended to read as follows:

a. Sample, inspect, analyze, and test agricultural seed ~~other than lawn seed~~, if the agricultural seed is transported, sold, offered, or exposed for sale within this state for sowing. The department shall perform these duties at a time and place and to an extent necessary to determine whether the agricultural seed is in compliance with this chapter. The department shall promptly notify the person who transported, sold, offered, or exposed the seed for sale, of a violation.

b. Adopt rules governing methods of sampling, inspecting, analyzing, testing, and examining agricultural seed ~~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 other rules or regulations necessary for the efficient enforcement of this chapter.

Sec. 2. Section 199.11, subsection 2, paragraphs a and b, Code 1993, are amended to read as follows:

a. Enter upon public or private premises during regular business hours in order to have access to commercial seed ~~other than lawn seed~~, subject to this chapter and departmental rules.

b. 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 department believes is in violation of this chapter or departmental rules. The order shall prohibit further sale of the seed until the department has evidence of compliance. However, the owner or custodian of the seed shall be permitted to remove the seed from a salesroom open to the public. Judicial review of the order may be sought in accordance with chapter 17A. However, notwithstanding chapter 17A, petitions for judicial review may be filed in the district court. This subsection does not limit the right of the department to proceed as authorized by other sections of this chapter.

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

Approved April 26, 1993

CHAPTER 41

PRACTICES OF DENTISTRY AND NURSING

H.F. 561

AN ACT relating to the practices of nursing and dentistry, including the establishment of penalties.

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

Section 1. NEW SECTION. 152.11 INVESTIGATORS FOR NURSES.

The board of nursing may appoint investigators, who shall not be members of the board, to administer and aid in the enforcement of the provision of law related to those licensed to practice nursing. The amount of compensation for the investigators shall be determined pursuant to chapter 19A. Investigators authorized by the board of nursing have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 2. Section 153.33, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. To 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 those persons licensed to practice dentistry and dental hygiene. The amount of compensation for the investigators shall be determined pursuant to chapter 19A. Investigators authorized by the board of dental examiners have the powers and status of peace officers when enforcing this chapter and chapters 147 and 272C.

Sec. 3. Section 153.34, unnumbered paragraph 1, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

The board may issue an order to discipline a licensed dentist or dental hygienist for any of the grounds set forth in this chapter, chapter 272C, or title IV. Notwithstanding section 272C.3, licensee discipline may include a civil penalty not to exceed ten thousand dollars. Pursuant to this section, the board may discipline a licensee for any of the following reasons:

Sec. 4. Section 153.37, Code 1993, is amended to read as follows:

153.37 DENTAL COLLEGE AND DENTAL HYGIENE PROGRAM FACULTY PERMITS.

The state board of dental examiners may issue to members of the faculty of the college of dentistry a faculty permit entitling the holder to practice dentistry or dental hygiene within the college of dentistry or a dental hygiene program and ~~its~~ affiliated teaching facilities as an adjunct to the faculty members' teaching positions, associated responsibilities, and functions. The dean of the college of dentistry or chairperson of a dental hygiene program shall certify to the state board of dental examiners those bona fide members of the college's or a dental hygiene program's faculty who are not licensed and registered to practice dentistry or dental hygiene in Iowa. Any faculty member so certified shall, prior to commencing the member's duties in the college of dentistry or a dental hygiene program, make written application to the state board of dental examiners for a permit. The permit shall expire on the first day of July next following the date of issuance and may at the discretion of the state board of dental examiners, be renewed on a yearly basis. ~~A fee of fifteen dollars shall be paid by the applicant for issuance and renewal of the faculty permit.~~ The fee for the faculty permit and the renewal shall be set by the state board of dental examiners based upon the administrative cost of issuance of the permit. The fee shall be deposited in the same manner as fees provided for in section 147.82. The faculty permit shall be valid during the time the holder remains a member of the faculty of the college of dentistry and shall subject the holder to all provisions of this chapter.

Approved April 26, 1993

CHAPTER 42

LIABILITY FOR ENVIRONMENTAL CONTAMINATION

H.F. 645

AN ACT relating to exemptions from liability for environmental contamination and providing for a state lien on the property and providing an effective date.

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

Section 1. Section 455B.171, subsection 11, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purpose of imposing liability for violation of a section of this part, or a rule or regulation adopted by the department of natural resources under this part, "person" does not include a person who holds indicia of ownership in contaminated property from which prohibited discharges, deposits, or releases of pollutants into any water of the state have been or are evidenced, if the person has satisfied the requirements of section 455B.381, subsection 7, unnumbered paragraph 2, with respect to the contaminated property, regardless of whether the department has determined that the contaminated property constitutes a hazardous condition site.

Sec. 2. Section 455B.381, subsection 7, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Person having control over a hazardous substance" does not include a person who holds indicia of ownership in a hazardous condition site, if the person satisfies all of the following:

a. Holds indicia of ownership primarily to protect that person's security interest in the hazardous condition site, where the indicia of ownership was acquired either for the purpose of securing payment of a loan or other indebtedness, or in the course of protecting the security interest. The term "primarily to protect that person's security interest" includes, but is not limited to, ownership interests acquired as a consequence of that person exercising rights as

a security interest holder in the hazardous condition site, where the exercise is necessary or appropriate to protect the security interest, to preserve the value of the collateral, or to recover a loan or indebtedness secured by the interest. The person holding indicia of ownership in a hazardous condition site and who acquires title or a right to title to the site upon default under the security arrangement, or at, or in lieu of, foreclosure, shall continue to hold the indicia of ownership primarily to protect that person's security interest so long as the subsequent actions of the person with respect to the site are intended to protect the collateral secured by the interest, and demonstrate that the person is seeking to sell or liquidate the secured property rather than holding the property for investment purposes.

b. Does not exhibit managerial control of, or managerial responsibility for, the daily operation of the hazardous condition site through the actual, direct, and continual or recurrent exercise of managerial control over the hazardous condition site in which that person holds a security interest, which managerial control materially divests the borrower, debtor, or obligor of control.

c. Has taken no subsequent action with respect to the site which causes or exacerbates a release or threatened release of a hazardous substance.

Sec. 3. Section 455B.392, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. a. There is no liability under this section for a person who has satisfied the requirements of section 455B.381, subsection 7, unnumbered paragraph 2, regardless of when that person acquired title or right to title to the hazardous condition site, except that a person otherwise exempt from liability under this subsection shall be liable to the state for the lesser of:

(1) The total reasonable cleanup costs incurred by the state to cleanup a hazardous substance at the hazardous condition site; or

(2) The amount representing the postcleanup fair market value of the property comprising the hazardous condition site.

b. Liability under this subsection shall only be imposed when the person holds title to the hazardous condition site at the time the state incurs reasonable cleanup costs.

c. For purposes of this subsection, "postcleanup fair market value" means the actual amount of consideration received by such person upon sale or transfer of the hazardous condition site which has been cleaned up by the state to a bona fide purchaser for value.

d. Cleanup expenses incurred by the state shall be a lien upon the real estate constituting the hazardous condition site, recordable and collectable in the same manner as provided for in section 424.11, subject to the terms of this subsection. The lien shall attach at the time the state incurs expenses to clean up the hazardous condition site. The lien shall be valid as against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, only when a notice of the lien is filed with the recorder of the county in which the property is located. Upon payment by the person to the state, of the amount specified in this subsection, the state shall release the lien. If no lien has been recorded at the time the person sells or transfers the property, then the person shall not be liable for any cleanup costs incurred by the state.

Sec. 4. Section 455B.418, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. For the purpose of determining violations under this section and section 455B.417, the term "person" does not include a person who holds indicia of ownership in the hazardous waste or hazardous substance disposal site which contains a hazardous waste or hazardous substance, or where hazardous substances or wastes are treated, stored, or disposed of, if such person has satisfied the requirements of section 455B.381, subsection 7, unnumbered paragraph 2, with respect to the disposal site, whether or not the director has determined that such disposal site constitutes a hazardous condition site.

Sec. 5. Section 455B.471, subsection 6, unnumbered paragraph 2, Code 1993, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

"Owner" does not include a person who holds indicia of ownership in the underground storage tank or the tank site property if all of the following apply:

(a) The person holds indicia of ownership primarily to protect that person's security interest in the underground storage tank or tank site property, where such indicia of ownership was

acquired either for the purpose of securing payment of a loan or other indebtedness, or in the course of protecting the security interest. The term "primarily to protect that person's security interest" includes but is not limited to ownership interests acquired as a consequence of that person exercising rights as a security interest holder in the underground storage tank or tank site property, where such exercise is necessary or appropriate to protect the security interest, to preserve the value of the collateral, or to recover a loan or indebtedness secured by such interest. The person holding indicia of ownership in the underground storage tank or tank site property and who acquires title or a right to title to such underground storage tank or tank site property upon default under the security arrangement, or at, or in lieu of, foreclosure, shall continue to hold such indicia of ownership primarily to protect that person's security interest so long as subsequent actions taken by that person with respect to the underground storage tank or tank site property are intended to protect the collateral secured by the interest, and demonstrate that the person is seeking to sell or liquidate the secured property rather than holding the property for investment purposes.

(b) The person does not exhibit managerial control of, or managerial responsibility for, the daily operation of the underground storage tank or tank site property through the actual, direct, and continual or recurrent exercise of managerial control over the underground storage tank or tank site property in which that person holds a security interest, which managerial control materially divests the borrower, debtor, owner or operator of the underground storage tank or tank site property of such control.

(c) The person has taken no subsequent action with respect to the site which causes or exacerbates a release or threatened release of a hazardous substance.

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

Approved April 26, 1993

CHAPTER 43

UNIFORM COMMERCIAL CODE FINANCING STATEMENTS

S.F. 38

AN ACT providing for requirements of a financing statement filed under the uniform commercial code, and providing applicability and effective dates.

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

Section 1. Section 554.9402, subsection 8, Code 1993, is amended to read as follows:

8. A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. The change of the mailing address of the debtor from a rural route address to a street address as a result of the implementation of an E911 emergency telephone system which occurs during the period that the financing statement is effective shall not be considered seriously misleading.

Sec. 2. APPLICABILITY AND EFFECTIVE DATES.

1. This Act applies to all financing statements filed before, on, or after the effective date of this Act.

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

Approved April 26, 1993

CHAPTER 44

PUBLIC RETIREMENT SYSTEMS

S.F. 347

AN ACT relating to public retirement systems, and including effective and retroactive applicability dates.

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

Section 1. Section 97A.5, subsection 6, Code 1993, is amended to read as follows:

6. DATA — RECORDS — REPORTS.

a. The department of personnel shall keep in convenient form the data necessary for actuarial valuation of the various funds of the system and for checking the expense of the system. The director of the department of personnel shall keep a record of all the acts and proceedings of the board, which records shall be open to public inspection~~, and shall keep a complete record of the names of all of the members, their ages and length of service, the salary of each member, and other facts necessary in the administration of this chapter, and for the purpose of obtaining such facts, the director of personnel shall have access to the records of the various departments of the state~~. The board of trustees shall biennially make a report to the ~~state legislature~~ general assembly showing the fiscal transactions of the system for the preceding biennium, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the system.

b. The director of the department of personnel shall maintain records, including but not limited to names, addresses, ages, and lengths of service, salaries and wages, contributions, designated beneficiaries, benefit amounts, if applicable, and other information pertaining to members as necessary in the administration of this chapter, as well as the names, addresses, and benefit amounts of beneficiaries. For the purpose of obtaining these facts, the director of personnel shall have access to the records of the various departments of the state and the departments shall provide such information upon request. Member and beneficiary records containing personal information are not public records for the purposes of chapter 22. However, summary information concerning the demographics of the members and general statistical information concerning the system is subject to chapter 22, as well as aggregate information by category.

Sec. 2. Section 97A.16, Code 1993, is amended to read as follows:

97A.16 WITHDRAWAL OF CONTRIBUTIONS — REPAYMENT.

1. Commencing July 1, 1990, if an active member, in service on or after that date, terminates service, other than by death or disability, the member may elect to withdraw the member's contributions under section 97A.8, subsection 1, paragraphs "f" and "h", together with interest thereon at a rate determined by the board of trustees. If a member withdraws contributions as provided in this section, the member shall be deemed to have waived all claims for other benefits from the system for the period of membership service for which the contributions are withdrawn.

2. A layoff for an indefinite period of time shall be deemed to be a termination of service for the purposes of this section. A member who withdraws the member's contributions as provided in this section following a layoff for an indefinite period of time and who is subsequently recalled to service may repay the contributions. The contributions repaid by the member for such service shall be equal to the amount of contributions withdrawn, plus interest computed based upon the investment interest rate assumption established by the board of trustees as of the time the contributions are repaid. However, the member must make the contributions within two years of the date of the member's return to service. The period of membership service for which contributions are repaid shall be treated as though the contributions were never withdrawn.

Sec. 3. Section 97B.8, unnumbered paragraph 2, Code 1993, 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 an industrial corporation located within the state of Iowa, and three shall be members of the system, one of whom is an active member who is an employee of a school district, area education agency, or merged area, one of whom 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. Five voting members of the board shall constitute a quorum.

Sec. 4. Section 97B.41, subsection 20, paragraph b, subparagraph (11), Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in section 97B.49, subsection 16, the department shall establish the covered wages limitation which applies to members covered under section 97B.49, subsection 16, at the same level as is established under this subparagraph for other members of the system.

Sec. 5. Section 97B.49, subsection 5, paragraph b, unnumbered paragraph 2, Code 1993, 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. However, commencing July 1, 1994, if the annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb an increase in the percentage multiplier in excess of two percent, the department shall increase the percentage multiplier for that year beyond two percent to the extent which the increase can be absorbed by the contribution rates in effect, not to exceed a maximum percentage multiplier of sixty percent. 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. 6. Section 97B.49, subsection 5, paragraph b, Code 1993, is amended by adding the following new unnumbered paragraphs after unnumbered paragraph 3:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any other provision of this chapter providing for the payment of the benefits provided in subsection 16, the department shall establish the percentage multiplier which applies to members covered under subsection 16 at the same level as is established under this subsection for other members of the system.

NEW UNNUMBERED PARAGRAPH. By November 15, 1993, the department shall set aside from other moneys in the retirement fund two million, eight hundred fifty thousand dollars. The moneys set aside shall be from the funds generated by the employer and employee contributions in effect under section 97B.11 that exceed the amount necessary to fund the system's existing liabilities, as determined in the annual actuarial valuation of the system as of June 30, 1993. If the annual actuarial valuation indicates that the amount of the employer and employee contributions in excess of the amount necessary to fund existing liabilities is less than two million, eight hundred fifty thousand dollars, the department shall set aside all funds

that are available. The funds set aside shall not be used in determining the percentage multiplier pursuant to this section on July 1, 1994, or in determining the covered wage limitation pursuant to section 97B.41, subsection 20, paragraph "b", subparagraph (11), on January 1, 1994. However, any funds set aside which are not specifically dedicated to a purpose by the Seventy-fifth General Assembly shall be used in determining the percentage multiplier and the covered wage limitation thereafter.

Sec. 7. Section 97B.49, subsection 16, paragraph a, subparagraph (3), Code 1993, is amended to read as follows:

(3) 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~~ as provided in subsection 5, paragraph "b", until reaching sixty percent of the three-year average covered wage.

Sec. 8. Section 97B.66, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, effective January 1, 1994, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 9. Section 97B.72, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, effective January 1, 1994, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 10. Section 97B.72A, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Effective January 1, 1994, however, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 11. Section 97B.73, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, effective January 1, 1994, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 12. Section 97B.73A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, effective January 1, 1994, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 13. Section 97B.74, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, effective January 1, 1994, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 14. Section 97B.80, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, effective January 1, 1994, the department shall ensure that the member, in exercising an option provided in this section, does not exceed the amount of annual additions to a member's account permitted pursuant to section 415 of the federal Internal Revenue Code.

Sec. 15. NEW SECTION. 411.1A PURPOSE OF CHAPTER.

The purpose of this chapter is to promote economy and efficiency in the municipal public safety service by providing an orderly means for police officers and fire fighters to have a retirement system which will provide for the payment of pensions to retired and disabled members and to the surviving spouses and dependents of deceased members.

Sec. 16. Section 411.5, subsection 2, Code 1993, is amended to read as follows:

2. Compensation. The trustees, other than the secretary, shall serve without compensation, but they shall be reimbursed from the fire and police retirement fund for all necessary expenses which they may incur through service on the board, as provided pursuant to section 411.36.

Sec. 17. Section 411.5, subsection 6, Code 1993, is amended to read as follows:

6. RECORDS — REPORTS.

a. 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.

b. The system shall maintain records, including but not limited to names, addresses, ages, and lengths of service, salaries and wages, contributions, designated beneficiaries, benefit amounts, if applicable, and other information pertaining to members as necessary in the administration of this chapter, as well as the names, addresses, and benefit amounts of beneficiaries. For the purpose of obtaining these facts, the system shall have access to the records of the participating cities and the cities shall provide such information upon request. Member and beneficiary records containing personal information are not public records for the purposes of chapter 22. However, summary information concerning the demographics of the members and general statistical information concerning the system is subject to chapter 22, as well as aggregate information by category.

Sec. 18. Section 411.6A, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Optional benefits shall be adjusted annually in a manner consistent with that provided in section 411.6, subsection 12. However, if the member has selected a designated recipient other than the member's spouse, the designated recipient shall be deemed to be the member's surviving spouse for the purpose of calculating the annual adjustment in the manner provided in section 411.6, subsection 12.

Sec. 19. Section 411.23, Code 1993, is amended to read as follows:

411.23 WITHDRAWAL OF CONTRIBUTIONS — REPAYMENT.

1. Commencing July 1, 1990, if an active member, in service on or after that date, terminates service, other than by death or disability, the member may elect to withdraw the member's contributions under section 411.8, subsection 1, paragraphs "f" and "h", together with interest thereon at a rate determined by the board of trustees. If a member withdraws contributions as provided in this section, the member shall be deemed to have waived all claims for other benefits from the system for the period of membership service for which the contributions are withdrawn.

2. A layoff for an indefinite period of time shall be deemed to be a termination of service for the purposes of this section. A member who withdraws the member's contributions as provided in this section following a layoff for an indefinite period of time and who is subsequently recalled to service may repay the contributions. The contributions repaid by the

member for such service shall be equal to the amount of contributions withdrawn, plus interest computed based upon the investment interest rate assumption established by the board of trustees as of the time the contributions are repaid. However, the member must make the contributions within two years of the date of the member's return to service. The period of membership service for which contributions are repaid shall be treated as though the contributions were never withdrawn.

Sec. 20. Section 411.36, subsection 5, Code 1993, is amended to read as follows:

5. a. Members of the board shall be paid their actual and necessary expenses incurred in the performance of their duties and shall receive a per diem as specified in section 7E.6 for each day of service. Per diem and expenses shall be paid to voting members from the fire and police retirement fund created in section 411.8.

b. A participating city shall allow an employee who is a member of the board to attend all meetings of the board. In their capacity as members of the board, which is an instrumentality of political subdivisions of the state, members of the board shall be deemed to be jointly serving the members of the system and the participating cities. The members of the board shall perform their duties in the best interest of the system. Board members who are employees of participating cities shall be allowed to attend board meetings without being required to use paid leave. Costs incurred by a board member which are associated with having a replacement perform the member's other duties for the participating city while serving in the capacity of a member of the board may be considered a necessary expense of the system.

c. Per diem and expenses of the legislative members shall be paid from the funds appropriated under section 2.12. However, legislative members shall not be paid pursuant to this section when the general assembly is actually in session at the seat of government.

Sec. 21. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES. The sections of this Act which amend sections 97A.16; 411.5, subsection 2; 411.23; and 411.36, subsection 5, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1992. The sections of this Act which amend sections 97B.41, subsection 20, paragraph "b", subparagraph (11), by enacting a new unnumbered paragraph; 97B.49, subsection 5, paragraph "b", by enacting two new unnumbered paragraphs; and 97B.49, subsection 16, paragraph "a", subparagraph (3), being deemed of immediate importance, take effect upon enactment.

Approved April 26, 1993

CHAPTER 45

MOTOR VEHICLE DEALERS

S.F. 363

AN ACT relating to motor vehicle dealers by permitting the sale of classic cars and defining adjacent lots for purposes of license fees.

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

Section 1. Section 322.5, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this subsection, parcels of property shall be deemed to be adjacent if the parcels are only separated by an alley, street, or highway that is not a controlled-access facility.

*Sec. 2. Section 322.5, Code 1993, is amended by adding the following new subsection:

*See Chapter 174, §3, herein for effective date

NEW SUBSECTION. 3. A motor vehicle dealer may also, upon receipt of a temporary permit approved by the department, display and sell classic cars only at county fairs, as defined in chapter 174, vehicle shows, and vehicle exhibitions which have been approved by the department for purposes of classic car display and sale and the provisions of section 322.3, subsection 9, shall not be applicable. Application for a temporary permit shall be made on forms provided by the department and shall be accompanied by a ten dollar permit fee. A permit shall be issued for a single period of not to exceed five days. Not more than three permits may be issued to a motor vehicle dealer in any one calendar year. For purposes of this subsection, "classic car" means a motor vehicle fifteen years old or older but less than twenty years old which is primarily of value as a collector's item and not as transportation.

Approved April 26, 1993

CHAPTER 46

DEPARTMENT OF CORRECTIONS – MISCELLANEOUS PROVISIONS

S.F. 392

AN ACT relating to duties and procedures of the department of corrections, providing for agreements for private employment of inmates, application of witness fees earned by an inmate toward payment of restitution or crime victim compensation, removing language relating to transfers of certain inmates, providing for temporary supervision and placement of inmates in violator facilities, making changes in provisions relating to escape from work release, and changing times of payment of certain funds to inmates.

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

Section 1. Section 85.59, unnumbered paragraphs 1 and 4, Code 1993, are amended to read as follows:

For the purposes of this section, the term "inmate" includes a person confined in a reformatory, state penitentiary, release center, or other state penal or correctional institution while that person works in connection with the maintenance of the institution, ~~or~~ in an industry maintained ~~therein~~ in the institution, or in an industry referred to in section 904.809, or while on detail to perform services on a public works project.

If an inmate is permanently incapacitated by injury in the performance of the inmate's work in connection with the maintenance of the institution, ~~or~~ in an industry maintained in the institution, or in an industry referred to in section 904.809, while on detail to perform services on a public works project, or while performing services authorized pursuant to section 904.809, or is permanently or temporarily incapacitated in connection with the performance of unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or in connection with the provision of services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, or who is performing a work assignment of value to the state or to the public under chapter 232, that inmate shall be awarded only the benefits provided in section 85.27 and section 85.34, subsections 2 and 3. The weekly rate for such permanent disability is equal to sixty-six and two-thirds percent of the state average weekly wage paid employees as determined by the department of employment services under section 96.19, subsection 36, and in effect at the time of the injury.

Sec. 2. Section 599.1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who is less than eighteen years old, but who is tried, convicted, and sentenced as an adult and committed to the custody of the director of the department of corrections shall be deemed to have attained the age of majority for purposes of making decisions and giving consent to medical care, related services, and treatment during the period of the person's incarceration.

Sec. 3. Section 622.69, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Witness fees to be received by an inmate, while in the custody of the department of corrections, shall be applied either toward payment of any restitution owed by the inmate or to the crime victim compensation program established in chapter 912.

Sec. 4. Section 904.104, Code 1993, is amended to read as follows:

904.104 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. ~~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. 5. Section 904.206, subsection 1, Code 1993, is amended to read as follows:

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

Sec. 6. Section 904.207, Code 1993, is amended to read as follows:

904.207 VIOLATOR FACILITY.

The director shall establish a violator facility as a freestanding facility, or designate a portion of an existing correctional facility for the purpose. A violator facility is for the temporary confinement of offenders~~, for no longer than sixty days,~~ who have violated conditions of release under work release~~,~~ or parole as defined in section 906.1, or probation~~, or who are sentenced~~ granted as a result of suspension of a sentence to the custody of the director ~~for assignment to a treatment facility under section 904.513~~ of the department of corrections. The director shall adopt rules pursuant to chapter 17A, subject to the approval of the board, to implement this section.

Sec. 7. Section 904.809, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

904.809 PRIVATE INDUSTRY EMPLOYMENT OF INMATES OF CORRECTIONAL INSTITUTIONS.

1. The following conditions shall apply to all agreements to provide private industry employment for inmates of correctional institutions:

a. The state director and the industries board shall comply with the intent of section 904.801.

b. An inmate shall not be compelled to take private industry employment.

c. Inmates shall receive allowances commensurate with those wages paid persons in similar jobs outside the correctional institutions. This may include piece rating in which the inmate is paid only for what is produced.

d. Employment of inmates in private industry shall not displace employed workers, apply to skills, crafts, or trades in which there is a local surplus of labor, or impair existing contracts for employment or services.

e. Inmates employed in private industry shall be eligible for workers' compensation in accordance with section 85.59.

f. Inmates employed in private industry shall not be eligible for unemployment compensation while incarcerated.

g. The state director shall implement a system for screening and security of inmates to protect the safety of the public.

2. a. Any other provision of the Code to the contrary notwithstanding, the state director may, after obtaining the advice of the industries board, lease one or more buildings or portions thereof on the grounds of any state adult correctional institution, together with the real estate needed for reasonable access to and egress from the leased buildings, for a term not to exceed twenty years, to a private corporation for the purpose of establishing and operating a factory for the manufacture and processing of products, or any other commercial enterprise deemed by the state director to be consistent with the intent stated in section 904.801.

b. Each lease negotiated and concluded under this subsection shall include, and shall be valid only so long as the lessee adheres to, the following provisions:

(1) Persons working in the factory or other commercial enterprise operated in the leased property, except the lessee's supervisory employees and necessary support personnel approved by the industries board, shall be inmates of the institution where the leased property is located who are approved for such work by the state director and the lessee.

(2) The factory or other commercial enterprise operated in the leased property shall observe at all times such practices and procedures regarding security as the lease may specify, or as the state director may temporarily stipulate during periods of emergency.

3. The state director with the advice of the prison industries advisory board may provide an inmate work force to private industry. Under the program inmates will be employees of a private business.

4. Private or nonprofit organizations may subcontract with Iowa state industries to perform work in Iowa state industries shops located on the grounds of a state institution. The execution of the subcontract is subject to the following conditions:

a. The private employer shall pay to Iowa state industries a per unit price sufficient to fund allowances for inmate workers commensurate with similar jobs outside corrections institutions.

b. Iowa state industries shall negotiate a per unit price which takes into account staff supervision and equipment provided by Iowa state industries.

Sec. 8. Section 904.901, Code 1993, is amended to read as follows:

904.901 WORK RELEASE PROGRAM.

The Iowa department of corrections, in consultation with the board of parole, shall establish a work release program under which the board of parole may grant inmates sentenced to an institution under the jurisdiction of the department the privilege of leaving actual confinement during necessary and reasonable hours for the purpose of working at gainful employment. Under appropriate conditions the program may also include an out-of-state work or treatment placement or release for the purpose of seeking employment, ~~and~~ attendance at an educational institution, or family visitation. An inmate may be placed on work release status in the inmate's own home, under appropriate circumstances, which may include child care and housekeeping in the inmate's own home. This work release program is in addition to the institutional work release program established in section 904.910.

Sec. 9. Section 904.909, Code 1993, is amended to read as follows:

904.909 WORK RELEASE AND OWI VIOLATORS — REIMBURSEMENT TO DEPARTMENT FOR TRANSPORTATION COSTS.

The department of corrections shall arrange for the return of a work release client, or offender convicted of violating chapter 321J, who escapes ~~or participates in an act of absconding~~ from the facility to which the client is assigned or violates the conditions of supervision. The client or offender shall reimburse the department of corrections for the cost of transportation incurred because of the escape or ~~act of absconding~~ violation. The amount of reimbursement shall be the actual cost incurred by the department and shall be credited to the support account from which the billing occurred. The director of the department of corrections shall recommend

rules pursuant to chapter 17A, subject to approval by the board of corrections pursuant to section 904.105, subsection 7, to implement this section.

Sec. 10. Section 906.1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who has been released on parole or work release may be temporarily assigned to the supervision of the director of the department of corrections as a result of placement in a violator facility established pursuant to section 904.207.

Sec. 11. Section 906.9, subsection 3, and unnumbered paragraph 2, Code 1993, are amended to read as follows:

~~3. Upon going from an educational work release to parole or discharge, fifty dollars.~~

Those inmates receiving payment under subsection 2 ~~or 3~~ shall not be eligible for payment under subsection 1 unless they are returned to the institution. An inmate shall only be eligible to receive one payment under this section during any twelve-month period. The warden or superintendent shall maintain an account of all funds expended pursuant to this section.

Sec. 12. Section 908.9, Code 1993, is amended to read as follows:

908.9 DISPOSITION OF VIOLATOR.

If the parole of a parole violator is revoked, the violator shall remain in the custody of the Iowa department of corrections under the terms of the parolee's original commitment. ~~The violator may be placed in a violator facility established pursuant to section 904.207 if the parole revocation officer or board panel determines that placement in a violator facility is necessary.~~ If the parole of a parole violator is not revoked, the parole revocation officer or board panel shall order the person's release subject to the terms of the person's parole with any modifications that the parole revocation officer or board panel determines proper, or may order that the violator be placed in a violator facility, established pursuant to section 904.207, if the parole revocation officer or board panel determines that placement in a violator facility is necessary.

Sec. 13. Sections 904.810 and 904.811, Code 1993, are repealed.

Approved April 26, 1993

CHAPTER 47

DEPARTMENT OF TRANSPORTATION – MISCELLANEOUS PROVISIONS

S.F. 78

AN ACT making technical changes to transportation Code provisions concerning applications for registration and title, relating to the speed limit laws, concerning the agency appeal process regarding the sale of railroad property, and relating to the issuance of commercial vehicle violation citations.

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

DIVISION I

Section 1. Section 321.25, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A vehicle may be operated upon the highways of this state without registration plates for a period of thirty days after the date of delivery of the vehicle to the purchaser from a dealer if a card bearing the words "registration applied for" is attached on the rear of the vehicle. The card shall have plainly stamped or stenciled the registration number of the dealer from whom the vehicle was purchased and the date of delivery of the vehicle. In addition, a dealer licensed to sell new motor vehicles may attach the card to a new motor vehicle delivered by the dealer

to the purchaser even if the vehicle was purchased from an out-of-state dealer and the card shall bear the registration number of the dealer that delivered the vehicle. A dealer shall not issue a card to a person known to the dealer to be in possession of registration plates which may be attached to the vehicle. A dealer shall not issue a card unless an application for registration and certificate of title has been made by the purchaser and a receipt issued to the purchaser of the vehicle showing the fee paid by the person making the application. Dealers' records shall indicate the agency to which the fee is sent and the date the fee is sent. The dealer shall forward the application by the purchaser to the county treasurer or state office within fifteen calendar days from the date of delivery of the vehicle. However, if the vehicle is subject to a security interest and has been offered for sale pursuant to section 321.48, subsection 1, the dealer shall forward the application by the purchaser to the county treasurer or state office within twenty-two calendar days from the date of the delivery of the vehicle to the purchaser.

Sec. 2. Section 321.49, subsection 1, Code 1993, is amended to read as follows:

1. Except as provided in section 321.52, if an application for transfer of registration and certificate of title is not submitted to the county treasurer of the residence of the transferee within fifteen days of the date of assignment or transfer of title, or within twenty-two days of the date of delivery to the purchaser if the vehicle is subject to a security interest and was offered for sale pursuant to section 321.48, subsection 1, a penalty of ten dollars shall accrue against the applicant, and no registration card or certificate of title shall be issued to the applicant for the vehicle until the penalty is paid.

DIVISION II

Sec. 3. Section 321.285, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The following shall be the lawful speed except as ~~hereinbefore or hereinafter modified~~ provided by this section, or except as posted pursuant to sections 262.68; 321.236, subsection 5; 321.288, subsection 6; 321.289; 321.290; 321.293; 321.295; and 461A.36, and any speed in excess thereof shall be unlawful:

Sec. 4. Section 321.285, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 5. Section 321.285, subsection 5, Code 1993, is amended to read as follows:

5. ~~Fifty-five~~ Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic shall be fifty-five miles per hour ~~from sunset to sunrise and fifty-five miles per hour from sunrise to sunset~~.

Sec. 6. Section 321.285, subsection 6, Code 1993, is amended by striking the subsection.

Sec. 7. Section 321.285, subsection 8, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Notwithstanding any other speed restrictions, the speed limit for all vehicular traffic, ~~except vehicles subject to the provisions of section 321.286~~ on fully controlled-access, divided, multilaned highways including the national system of interstate highways designated by the federal highway administration and this state (23 U.S.C. sec. 103 (e)) is sixty-five miles per hour. However, the department or cities with the approval of the department may establish a lower speed limit upon such highways located within the corporate limits of a city ~~and used as city alternate routes, commonly referred to as "freeways."~~. For the purposes of this subsection a fully controlled-access highway is a highway that gives preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections. A minimum speed of forty miles per hour, road conditions permitting, is established on the highways referred to in this subsection.

Sec. 8. Section 321.291, Code 1993, is amended to read as follows:

321.291 INFORMATION OR NOTICE.

In every charge of violation of ~~sections~~ section 321.285 ~~to 321.287~~ the information, also the notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location.

Sec. 9. Section 321.292, Code 1993, is amended to read as follows:

321.292 CIVIL ACTION UNAFFECTED.

The foregoing provisions of ~~sections~~ section 321.285 ~~to 321.287~~ shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence upon the part of the defendant as the proximate cause of an accident.

Sec. 10. Section 805.8, subsection 2, paragraph g, subparagraph (1), Code 1993, is amended to read as follows:

(1) For excessive speed violations when not more than five miles per hour in excess of the limit under sections ~~461A.36,~~ 321.236, subsections 5 and 11, 321.285, ~~321.286 and 321.287~~ and 461A.36, the scheduled fine is ten dollars.

Sec. 11. Section 805.8, subsection 2, paragraph g, subparagraph (3), Code 1993, is amended to read as follows:

(3) For excessive speed violations when in excess of the limit under sections 321.236, subsections 5 and 11, 321.285, ~~321.286, 321.287,~~ and 461A.36 by five or less miles per hour the fine is ten dollars, by more than five and not more than ten miles per hour the fine is twenty dollars, by more than ten and not more than fifteen miles per hour the fine is thirty dollars, by more than fifteen and not more than twenty miles per hour the fine is forty dollars, and by more than twenty miles per hour the fine is forty dollars plus two dollars for each mile per hour of excessive speed over twenty miles per hour over the limit.

Sec. 12. Section 805.8, subsection 2, paragraph k, Code 1993, is amended to read as follows:

k. For violations by operators of school buses and emergency vehicles, and for violations by other motor vehicle operators when in vicinity, under sections 321.231, 321.324, and 321.372 ~~and 321.377~~, the scheduled fine is twenty-five dollars: ~~However, excessive speed by a school bus in excess of ten miles over the limit is not a scheduled violation~~.

Sec. 13. Section 805.8, subsection 2, paragraph k, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For violations by operators of school buses under section 321.285, the scheduled fine is twenty-five dollars. However, excessive speed by a school bus in excess of ten miles over the limit is not a scheduled violation.

Sec. 14. Sections 321.286, 321.287, and 321.377, Code 1993, are repealed.

DIVISION III

Sec. 15. Section 321.449, unnumbered paragraph 9, Code 1993, is amended to read as follows:

Rules adopted under this section concerning periodic inspections shall not apply to special trucks as defined in section 321.1, subsection 76, and registered under section ~~321.123~~ 321.121.

DIVISION IV

Sec. 16. Section 327G.78, Code 1993, is amended to read as follows:

327G.78 SALE OF RAILROAD PROPERTY.

Subject to sections 327G.77 and 6A.16, when a railroad corporation, its trustee, or its successor in interest has interests in real property adjacent to a railroad right-of-way that are abandoned by order of the interstate commerce commission, reorganization court, bankruptcy court, or the department, or when a railroad corporation, its trustee, or its successor in interest seeks to sell its interests in that property under any other circumstance, the railroad corporation, its trustee, or its successor in interest shall extend a written offer to sell at a fair market value price to the persons holding leases, licenses, or permits upon those properties, allowing sixty days from the time of receipt for a written response. If a disagreement arises between the parties concerning the price or other terms of the sale transaction, either or both parties may make written application to the department to resolve the disagreement. The application shall be made within sixty days from the time an initial written response is served upon

the railroad corporation, trustee, or successor in interest by the person wishing to purchase the property. The department shall notify the department of inspections and appeals which shall hear the controversy and make a final determination of the fair market value of the property and the other terms of the transaction which were in dispute, within ninety days after the application is filed. The determination is subject to review by the department and the department's decision is the final agency action. All correspondence shall be by certified mail.

The decision of the department ~~of inspections and appeals~~ is binding on the parties, except that a person who seeks to purchase the real property may withdraw the offer to purchase within thirty days of the decision of the department ~~of inspections and appeals~~. If a withdrawal is made, the railroad corporation, trustee, or successor in interest may sell or dispose of the real property without further order of the department ~~of inspections and appeals~~.

This section does not apply when a rail line is being sold for continued railroad use.

DIVISION V

Sec. 17. Section 6A.10, subsection 1, Code 1993, is amended to read as follows:

1. The railway corporation shall apply to the department of transportation for permission to condemn. The department may, after hearing, report to the clerk of the district court ~~clerk~~ of the county in which the land is situated the description of the land sought to be condemned. The corporation may begin condemnation procedures in district court for the land described by the ~~authority~~ department.

DIVISION VI

Sec. 18. Section 602.8106, subsection 4, Code 1993, is amended to read as follows:

4. The clerk shall deposit all other fines and forfeited bail received from a magistrate in the court revenue distribution account established in section 602.8108, including those fines which are imposed through commercial vehicle violation citations issued by motor vehicle division personnel ~~at portable and fixed weigh stations in the state~~.

Approved April 27, 1993

CHAPTER 48

TRANSFER OF FUNCTIONS FROM DEPARTMENT OF CULTURAL AFFAIRS

S.F. 225

AN ACT relating to technical and other changes within the Code to transfer the library division, regional library system, library compact, state data center, and public broadcasting division from the department of cultural affairs to the department of education and to transfer the Terrace Hill commission from the department of cultural affairs to the department of general services, and providing for related matters.

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

Section 1. Section 7A.3, subsection 10, Code 1993, is amended to read as follows:

10. ~~Library commission~~ Commission of libraries.

Sec. 2. Section 7E.5, subsection 1, paragraph m, Code 1993, is amended to read as follows:

m. The department of cultural affairs, created in section 303.1, which has primary responsibility for managing the state's interests in the areas of the arts, history, ~~libraries,~~ and other cultural matters.

Sec. 3. Section 12C.1, subsection 1, Code 1993, is amended to read as follows:

1. All funds held in the hands of the following officers or institutions shall be deposited in one or more depositories first approved by the appropriate governing body as indicated: For the treasurer of state, by the executive council; for judicial officers and court employees, by the supreme court; for the county treasurer, recorder, auditor, and sheriff, by the board of supervisors; for the city treasurer or other designated financial officer of a city, by the city council; for the county public hospital or merged area hospital, by the board of hospital trustees; for a memorial hospital, by the memorial hospital commission; for a school corporation, by the board of school directors; for a city utility or combined utility system established under chapter 388, by the utility board; for a regional library established under chapter ~~303B~~ 256, by the regional board of library trustees; and for an electric power agency as defined in section 28F.2, by the governing body of the electric power agency. However, the treasurer of state and the treasurer of each political subdivision or the designated financial officer of a city shall invest all funds not needed for current operating expenses in time certificates of deposit in approved depositories pursuant to this chapter or in investments permitted by section 12B.10. The list of public depositories and the amounts severally deposited in the depositories are matters of public record. This subsection does not limit the definition of "public funds" contained in subsection 2.

Sec. 4. NEW SECTION. 18.8A TERRACE HILL COMMISSION.

1. The Terrace Hill commission is created consisting of nine persons, appointed by the governor, who are knowledgeable in business management and historic preservation and renovation. The governor shall appoint the chairperson. The terms of the commission members are for three years beginning on July 1 and ending on June 30.

2. The Terrace Hill commission may consult with the Terrace Hill society, Terrace Hill foundation, the executive and legislative branches of this state and other persons interested in the property.

3. The Terrace Hill commission may enter into contracts, subject to this chapter, to execute its purposes.

4. The commission may adopt rules to administer and implement the programs of the commission. The decision of the commission is final agency action under chapter 17A.

Sec. 5. Section 18.87, Code 1993, is amended to read as follows:

18.87 LIBRARIES.

The completed journals of the general assembly, and the official register shall be sent to each free public library in Iowa, the ~~library~~ division of libraries and information services of the department of ~~cultural affairs~~ education, the ~~library~~ commission of libraries, libraries at state institutions, and college libraries.

Sec. 6. Section 18.97, subsection 17, Code 1993, is amended to read as follows:

17. To the ~~library~~ division of libraries and information services of the department of ~~cultural affairs of Iowa~~ education ..... 1 copy for each depository library

Sec. 7. Section 18.100, Code 1993, is amended to read as follows:

18.100 EXCHANGE.

The volumes delivered to the state law library shall be used for the purpose of effecting exchange with other states, foreign countries, and provinces, for similar reports. All books received in such exchange shall become a part of the ~~library~~ division of libraries and information services of the department of ~~cultural affairs~~ education.

Sec. 8. Section 18.133, subsection 3, Code 1993, is amended to read as follows:

3. "Public agency" means a state agency, a school corporation, a city library, a regional library as provided in chapter ~~303B~~ 256, and a county library as provided in chapter 336.

Sec. 9. Section 18.134, subsection 2, Code 1993, is amended to read as follows:

2. A political subdivision receiving communications services from the state as of April 1, 1986, may continue to do so but communications services shall not be provided or resold to additional political subdivisions other than a school corporation, a city library, a regional library as provided in chapter ~~303B~~ 256, and a county library as provided in chapter 336. The rates charged to the political subdivision shall be the same as the rates charged to state agencies.

Sec. 10. Section 39.21, subsection 1, Code 1993, is amended to read as follows:

1. Regional library trustees as required by section ~~303B.3~~ 256.63.

Sec. 11. Section 218.22, Code 1993, is amended to read as follows:

218.22 RECORD PRIVILEGED.

Except with the consent of the administrator in charge of an institution, or on an order of a court of record, the record provided in section 218.21 shall be accessible only to the administrator of the division of the department of human services in control of such institution, the director of the department of human services and to assistants and proper clerks authorized by such administrator or the administrator's director. The administrator of the division of such institution is authorized to permit the ~~library~~ division of libraries and information services of the department of education and the historical division of the department of cultural affairs to copy or reproduce by any photographic, photostatic, microfilm, microcard or other process which accurately reproduces a durable medium for reproducing the original and to destroy in the manner described by law such records of residents designated in section 218.21.

Sec. 12. Section 256.1, Code 1993, is amended to read as follows:

256.1 DEPARTMENT ESTABLISHED.

1. The department of education is established to act in a policymaking and advisory capacity and to exercise general supervision over the state system of education including all of the following:

~~1~~ a. Public elementary and secondary schools.

~~2~~ b. Community colleges.

~~3~~ c. Area education agencies.

4 d. Vocational rehabilitation.

~~5~~ e. Educational supervision over the elementary and secondary schools under the control of ~~a director~~ an administrator of a division of the department of human services.

~~6~~ f. Nonpublic schools to the extent necessary for compliance with Iowa school laws.

2. Stimulate and encourage educational radio and television and other educational communications services as necessary to aid in accomplishing the educational objectives of the state.

3. Meet the informational needs of the three branches of state government.

4. Provide for the improvement of library services to all Iowa citizens and foster development and cooperation among libraries.

5. The department shall act as an administrative, supervisory, and consultative state agency.

Sec. 13. Section 256.7, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Except for the college student aid commission and the public broadcasting board and division, the state board shall:

Sec. 14. Section 256.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Except for the college student aid commission and the public broadcasting board and division, the director shall:

Sec. 15. Section 256.9, subsections 49 and 50, Code 1993, are amended by striking the subsections.

Sec. 16. Section 256.33, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The department shall consort with school districts, area education agencies, community colleges, and colleges and universities to provide assistance to them in the use of educational

technology for instruction purposes. The department shall consult with the advisory committee on the operation of the narrowcast system, established in section ~~303.77~~ 256.82, the advisory committee on telecommunications, established in section 256.7, subsection 9, and other users of educational technology on the development and operation of programs under this section.

Sec. 17. NEW SECTION. 256.50 DIVISION OF LIBRARIES AND INFORMATION SERVICES – DEFINITIONS.

As used in this section and sections 256.51 through 256.55, unless the context otherwise requires:

1. "Commission" means the commission of libraries.

2. "Division" means the division of libraries and information services of the department of education.

3. "State agency" means a legislative, executive, or judicial office of the state and all of its respective officers, departments, divisions, bureaus, boards, commissions, and committees, except the state institutions of higher education governed by the state board of regents.

4. "State publications" means all multiple-produced publications regardless of format, which are issued by a state agency and supported by public funds, but it does not include:

a. Correspondence and memoranda intended solely for internal use within the agency or between agencies.

b. Materials excluded from this definition by the commission through the adoption and enforcement of rules.

Sec. 18. NEW SECTION. 256.51 DIVISION OF LIBRARIES AND INFORMATION SERVICES – DUTIES AND RESPONSIBILITIES.

1. The division of libraries and information services is established within the department of education. The division shall do all of the following:

a. Determine policy for providing information service to the three branches of state government and to the legal and medical communities in this state.

b. Coordinate a statewide interregional interlibrary loan and information network among libraries in this state and support activities which increase cooperation among all types of libraries.

c. Establish and administer a program for the collection and distribution of state publications to depository libraries.

d. Develop and adopt, in conjunction with the Iowa regional library system, long-range plans for the continued improvement of library services and which will explore or broaden the information mission in the state. To insure that the concerns of all types of libraries are addressed, the division shall establish a long-range planning committee to review and evaluate progress and report findings and recommendations to the division and to the trustees of the Iowa regional library system at an annual meeting.

e. Develop in cooperation with the Iowa regional library system a biennial unified plan of service for the division of libraries and information services.

f. Establish and administer a statewide continuing education program for librarians and trustees.

g. Give to libraries advice and counsel in specialized areas which may include, but are not limited to, building construction and space utilization, children's services, and technological developments.

h. Obtain from libraries reports showing the condition, growth, and development of services provided and disseminate this information in a timely manner to the citizens of Iowa.

i. Establish and administer certification guidelines for librarians not covered by other accrediting agencies.

j. Foster public awareness of the condition of libraries in Iowa and of methods to improve library services to the citizens of the state.

k. Establish and administer standards for state agency libraries, the Iowa regional library system, and public libraries.

2. The division may do all of the following:

a. Enter into interstate library compacts on behalf of the state of Iowa with any state which legally joins in the compacts as provided in section 256.70.

b. Receive and expend money for providing programs and services. The division may receive, accept, and administer any moneys appropriated or granted to it, separate from the general library fund, by the federal government or by any other public or private agency.

c. Accept gifts, contributions, bequests, endowments, or other moneys, including but not limited to the Westgate endowment fund, for any or all purposes of the division. Interest earned on moneys accepted under this paragraph shall be credited to the fund or funds to which the gifts, contributions, bequests, endowments, or other moneys have been deposited, and is available for any or all purposes of the division. The division shall report annually to the director and the general assembly regarding the gifts, contributions, bequests, endowments, or other moneys accepted pursuant to this paragraph and the interest earned on them.

Sec. 19. NEW SECTION. 256.52 COMMISSION OF LIBRARIES ESTABLISHED — DUTIES OF COMMISSION AND STATE LIBRARIAN.

1. The state commission of libraries consists of one member appointed by the 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 and five members 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.

2. The commission shall elect one of its members as chairperson. The commission shall meet at the time and place specified by call of the chairperson. Four members are a quorum for the transaction of business.

3. The commission shall appoint the state librarian who shall administer the division, and serve at the pleasure of the commission.

The state librarian shall do all of the following:

a. Direct and organize the activities of the division.

b. Submit a biennial report to the governor on the activities and an evaluation of the division and its programs and policies.

c. Control all property of the division.

d. Appoint and approve the technical, professional, excepting the medical librarian and the law librarian, secretarial, and clerical staff necessary to accomplish the purposes of the division subject to chapter 19A.

e. Perform other duties imposed by law.

4. The commission shall adopt rules under chapter 17A for carrying out the responsibilities of the division.

5. The commission shall receive and approve the budget and unified plan of service submitted by the division of libraries and information services.

Sec. 20. NEW SECTION. 256.53 STATE PUBLICATIONS.

Upon issuance of a state publication in any format, a state agency shall deposit with the division at no cost to the division, seventy-five copies of the publication or a lesser number if specified by the division.

Sec. 21. NEW SECTION. 256.54 STATE LIBRARY — MEDICAL AND LAW LIBRARIES.

The state library includes, but is not limited to, a medical library, a law library, and the state data center.

1. The medical library shall be administered by a medical librarian, appointed by the director subject to chapter 19A, who shall do all of the following:

a. Operate the medical library which shall always be available for free use by the residents of Iowa under rules the commission adopts.

b. Give no preference to any school of medicine and shall secure books, periodicals, and pamphlets for every legally recognized school of medicine without discrimination.

c. Perform other duties imposed by law or prescribed by the rules of the commission.

2. The law library shall be administered by a law librarian appointed by the director subject to chapter 19A, who shall do all of the following:

a. Operate the law library which shall be maintained in the state capitol or in rooms convenient to the state supreme court and which shall be available for free use by the residents of Iowa under rules the commission adopts.

b. Maintain, as an integral part of the law library, reports of various boards and agencies and copies of bills, journals, and other information relating to current or proposed legislation.

c. Arrange to make exchanges of all printed material published by the states and the government of the United States.

d. Perform other duties imposed by law or by the rules of the commission.

Sec. 22. NEW SECTION. 256.55 STATE DATA CENTER.

A state data center is established in the department of education. The state data center shall be administered by the state data center coordinator, who shall do all of the following:

1. Manage the state data center program to make United States census data available to the residents of Iowa under rules the commission adopts.

2. Act as the state's liaison with the United States census bureau in matters relating to United States decennial, economic, and agricultural census data, and population estimates and projections.

3. Perform other duties imposed by law or prescribed by the commission.

Sec. 23. NEW SECTION. 256.60 REGIONAL LIBRARY SYSTEM ESTABLISHED — PURPOSES.

A regional library system is established to provide supporting services to libraries and to encourage local financial support for library services.

Sec. 24. NEW SECTION. 256.61 REGIONAL LIBRARY TRUSTEES.

The regional library system shall consist of seven regional boards of library trustees which shall serve respectively the seven geographic regions specified in this section. Each region shall be divided into geographic districts, which shall be drawn along county lines and which shall be represented on regional boards by trustees elected to the boards in the following numbers and from the following districts:

1. To the southwestern board, two from Pottawattamie county and one from each of the following five districts:

a. Harrison, Shelby and Audubon counties.

b. Guthrie, Cass and Adair counties.

c. Mills, Fremont and Page counties.

d. Montgomery, Adams, Union and Taylor counties.

e. Clarke, Lucas, Ringgold, Decatur and Wayne counties.

2. To the northwestern board, two from Woodbury county and one from each of the following five districts:

a. Lyon, Sioux and Osceola counties.

b. Dickinson, Emmet, Clay and Palo Alto counties.

c. O'Brien, Plymouth and Cherokee counties.

d. Buena Vista, Pocahontas, Ida, Sac and Calhoun counties.

e. Monona, Crawford and Carroll counties.

3. To the north central board, two from a district composed of Hancock, Cerro Gordo and Franklin counties; two from a district composed of Humboldt, Wright and Webster counties; and one from each of the following three districts:

a. Kossuth and Winnebago counties.

b. Hamilton and Hardin counties.

c. Worth, Mitchell and Floyd counties.

4. To the central board, four from a district composed of Polk and Marion counties, and one from each of the following three districts:

a. Greene, Dallas, Madison and Warren counties.

b. Boone and Story counties.

c. Marshall and Jasper counties.

5. To the southeastern board, two from Scott county and one from each of the following five districts:

a. Appanoose, Davis and Wapello counties.

b. Jefferson, Van Buren and Lee counties.

c. Monroe, Mahaska and Keokuk counties.

d. Henry and Des Moines counties.

e. Muscatine, Louisa and Washington counties.

6. To the east central board, three from a district composed of Linn and Jones counties; two from a district composed of Iowa, Johnson and Cedar counties; and one from each of the following two districts:

a. Tama, Benton and Poweshiek counties.

b. Jackson and Clinton counties.

7. To the northeastern board, two from Black Hawk county; two from a district composed of Delaware and Dubuque counties; and one from each of the following three districts:

a. Grundy, Butler and Bremer counties.

b. Howard, Winneshiek, Allamakee and Chickasaw counties.

c. Buchanan, Fayette and Clayton counties.

Sec. 25. NEW SECTION. 256.62 REGIONAL LIBRARY TRUSTEES — NONVOTING MEMBERS.

In addition to the members of the seven regional boards of library trustees provided in section 256.61, 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 256.63 and 256.64 do not apply to the appointed nonvoting members of the regional boards of library trustees.

Sec. 26. NEW SECTION. 256.63 ELECTION.

A trustee of a regional board shall be elected without regard to political affiliation at the general election by the vote of the electors of the trustee's district from a list of nominees, the names of which have been taken from nomination papers filed in accordance with chapter 45 in all respects except that they shall be signed by not less than twenty-five eligible electors of the respective district. The election shall be administered by the commissioner who has jurisdiction under section 47.2.

The votes cast in the election shall be canvassed and abstracts of the votes cast shall be promptly certified by the commissioner to the commissioner of elections who is responsible under section 47.2 for conducting elections for that regional library board district. In each county whose commissioner of elections is responsible under section 47.2 for conducting elections held for a regional library board district, the county board of supervisors shall convene at nine a.m. on the third Monday in November, canvass the abstracts of votes cast and declare the results of the voting. The commissioner shall at once issue certificates of election to each person declared elected.

Sec. 27. NEW SECTION. 256.64 TERMS.

Regional library trustees shall take office on the first day of January following the general election and shall serve terms of four years. A vacancy shall be filled when it occurs not less than ninety days before the next general election by appointment by the regional board for the unexpired term. No trustee shall serve on a local library board or be employed by a library during the trustee's term of office as a regional library trustee.

Sec. 28. NEW SECTION. 256.65 COMPENSATION.

Regional trustees shall be reimbursed for the actual and necessary expenses incurred by them in the discharge of their duties, but shall receive no compensation for services.

Sec. 29. NEW SECTION. 256.66 POWERS AND DUTIES OF REGIONAL TRUSTEES.

In carrying out the purposes of section 256.60, each board of trustees:

1. Shall appoint and evaluate a qualified administrator who shall have a master's degree in librarianship from a program of study accredited by the American library association and who may be terminated for good cause.

2. Subject to the approval of the annual plan of service by the director of the department of education, may receive and expend state appropriated funds.

3. May receive and expend other funds and receive and expend gifts of real property, personal property or mixed property, and devises and bequests including trust funds; may take title to the property; may execute deeds and bills of sale for the conveyance of the property; and may expend the funds received from the gifts.

4. May accept and administer trusts and may authorize nonprofit foundations acting solely for the support of the regional library to accept and administer trusts deemed by the board to be beneficial to the operation of the regional library. Notwithstanding section 633.63, the board and the nonprofit foundation may act as trustees in these instances. The board shall require that moneys belonging to a nonprofit foundation be audited annually.

5. May contract with libraries, library agencies, private corporations or individuals to improve library service.

6. May acquire land and construct or lease facilities to carry out the provisions of sections 256.60 through 256.69.

7. Shall provide consultation and educational programs for library staff and trustees concerning all facets of library management and operation.

8. Shall provide interlibrary loan and information services intraregionally, but which are capable of being linked interregionally, according to the standards developed by the commission of libraries.

9. Shall develop and adopt, in cooperation with other members of the regional library system and the director of the department of education, a long-range plan for the region.

10. Shall prepare, in cooperation with all members of the regional library system and the director of the department of education, an annual plan of service.

11. Shall provide data and prepare reports as directed by the director of the department of education.

12. Shall encourage governmental subdivisions to maintain local financial support for the operating expenses of local libraries.

13. May perform other acts necessary to carry out its powers and duties under sections 256.60 through 256.69.

Sec. 30. NEW SECTION. 256.67 DUTIES OF THE REGIONAL ADMINISTRATOR.

A regional administrator shall:

1. Act as administrator and executive secretary of the region in accordance with the objectives and policies adopted by the regional board and with the intent of this chapter.

2. Organize, staff, and administer the regional library so as to render the greatest benefit to libraries and information services in the area.

3. Advise and counsel with the regional board of trustees and individual libraries in all matters pertaining to the improvement of library services in the region.

4. Cooperate with other members of the regional library system, the state library of Iowa and representatives of the Iowa library community in considering and developing plans for the improvement of library services in Iowa.

5. Carry out the policies of the regional board of trustees not inconsistent with state law.

Sec. 31. NEW SECTION. 256.68 ALLOCATION AND ADMINISTRATION OF FUNDS.

1. Funds appropriated for the purpose of carrying out sections 256.60 through 256.69 shall be allocated to regional boards by the commission of libraries as follows:

a. Sixty percent in proportion to the population served by each regional board.

b. Twenty-five percent proportioned equally among the regional boards.

c. Fifteen percent in proportion to the geographic area served by each regional board.

2. In addition to funds received under subsection 1, a regional library board may individually or cooperatively apply to the commission of libraries for available grants.

Sec. 32. NEW SECTION. 256.69 LOCAL FINANCIAL SUPPORT.

Commencing July 1, 1977, each city within its corporate boundaries and each county within the unincorporated area of the county shall levy a tax of at least six and three-fourths cents per thousand dollars of assessed value on the taxable property or at least the monetary equivalent thereof when all or a portion of the funds are obtained from a source other than taxation, for the purpose of providing financial support to the public library which provides library services within the respective jurisdictions.

Sec. 33. NEW SECTION. 256.70 LIBRARY COMPACT AUTHORIZED.

The division of libraries and information services of the department of education is hereby authorized to enter into interstate library compacts on behalf of the state of Iowa with any state bordering on Iowa which legally joins therein in substantially the following form.

The contracting states agree that:

ARTICLE I – PURPOSE

Because the desire for the services provided by public libraries transcends governmental boundaries and can be provided most effectively by giving such services to communities of people regardless of jurisdictional lines, it is the policy of the states who are parties to this compact to cooperate and share their responsibilities in providing joint and cooperative library services in areas where the distribution of population makes the provision of library service on an interstate basis the most effective way to provide adequate and efficient services.

ARTICLE II – PROCEDURE

The appropriate state library officials and agencies having comparable powers with those of the Iowa commission of libraries of the party states or any of their political subdivisions may, on behalf of said states or political subdivisions, enter into agreements for the cooperative or joint conduct of library services when they shall find that the execution of agreements to that end as provided herein will facilitate library services.

ARTICLE III – CONTENT

Any such agreement for the cooperative or joint establishment, operation or use of library services, facilities, personnel, equipment, materials or other items not excluded because of failure to enumerate shall, as among the parties of the agreement:

1. Detail the specific nature of the services, facilities, properties or personnel to which it is applicable;

2. Provide for the allocation of costs and other financial responsibilities;

3. Specify the respective rights, duties, obligations and liabilities;

4. Stipulate the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of said agreement.

ARTICLE IV – CONFLICT OF LAWS

Nothing in this compact or in any agreement entered into hereunder shall alter, or otherwise impair any obligation imposed on any public library by otherwise applicable laws, or be constituted to supersede.

ARTICLE V – ADMINISTRATOR

Each state shall designate a compact administrator with whom copies of all agreements to which the state or any subdivision thereof is party shall be filed. The administrator shall have such powers as may be conferred by the laws of the administrator's state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact.

ARTICLE VI – EFFECTIVE DATE

This compact shall become operative when entered in by two or more entities having the powers enumerated herein.

ARTICLE VII – RENUNCIATION

This compact shall continue in force and remain binding upon each party state until six months after any such state has given notice of repeal by the legislature. Such withdrawal shall not be construed to relieve any party to an agreement authorized by Articles II and III of the compact from the obligation of that agreement prior to the end of its stipulated period of duration.

ARTICLE VIII – SEVERABILITY – CONSTRUCTION

The provisions of this compact shall be severable. It is intended that the provisions of this compact be reasonably and liberally construed.

Sec. 34. NEW SECTION. 256.71 ADMINISTRATOR.

The administrator of the division of libraries and information services shall be the compact administrator. The compact administrator shall receive copies of all agreements entered into by the state or its political subdivisions and other states or political subdivisions; consult with, advise and aid such governmental units in the formulation of such agreements; make such recommendations to the governor, legislature, governmental agencies and units as the administrator deems desirable to effectuate the purposes of this compact and consult and co-operate with the compact administrators of other party states.

Sec. 35. NEW SECTION. 256.72 AGREEMENTS.

The compact administrator and the chief executive of a county, city, or library board may enter into agreements with other states or their political subdivisions pursuant to the compact. The agreements made pursuant to this compact on behalf of the state of Iowa shall be made by the compact administrator. The agreements made on behalf of a political subdivision shall be made after due notice to and consultation with the compact administrator.

Sec. 36. NEW SECTION. 256.73 ENFORCEMENT.

The agencies and officers of this state and its subdivisions shall enforce this compact and do all things appropriate to effect its purpose and intent which may be within their respective jurisdiction.

Sec. 37. NEW SECTION. 256.80 DEFINITIONS.

As used in this section and sections 256.81 through 256.90 unless the context otherwise requires:

1. "Administrator" means the administrator of the public broadcasting division of the department of education.

2. "Board" means the Iowa public broadcasting board.

3. "Broadcast" means communications through a system that is receivable by the general public with programming designed for a large group of users.

4. "Narrowcast" means communications through systems that are directed toward a narrowly defined audience.

5. "Radio and television facility" means transmitters, towers, studios, and all necessary associated equipment for broadcasting, including closed circuit television.

Sec. 38. NEW SECTION. 256.81 PUBLIC BROADCASTING DIVISION CREATED — ADMINISTRATOR — DUTIES.

1. The public broadcasting division of the department of education is created. The chief administrative officer of the division is the administrator who shall be appointed by and serve at the pleasure of the Iowa public broadcasting board. The governor shall set the division administrator's salary unless otherwise provided by law. Educational programming shall be the highest priority of the division. The director of the department of education and the state board of education are not liable for the activities of the division of public broadcasting.

2. The administrator shall do all of the following:

a. Direct and organize the activities of the division.

b. Submit a biennial report to the governor on the activities and an evaluation of the division and its programs and policies.

c. Control all property of the division.

d. Perform other duties imposed by law.

Sec. 39. NEW SECTION. 256.82 BOARD — ADVISORY COMMITTEES.

1. The Iowa public broadcasting board is created to plan, establish, and operate educational radio and television facilities and other telecommunications services including narrowcast and broadcast systems to serve the educational needs of the state. The board shall be composed of nine members selected in the following manner:

a. Four members shall be appointed by the governor so that the portion of the board membership appointed under this paragraph includes two male board members and two female board members at all times:

(1) One member shall be appointed from the business community other than the commercial broadcasting industry and the telecommunications industry.

(2) One member shall be appointed from the commercial broadcast industry.

(3) One member shall be appointed from the membership of a fund-raising nonprofit organization financially assisting the Iowa public broadcasting division.

(4) One member shall represent the general public.

b. Five members shall be selected in the manner provided in this paragraph and the gender balance of the membership shall be coordinated among the associations and boards making the appointments so that not more than three members serving under this paragraph at the same time are of the same gender.

(1) One member shall be appointed by the state association of private colleges and universities.

(2) One member shall be appointed jointly by the superintendents of the community colleges created by chapter 260C.

(3) One member shall be appointed jointly by the administrators of the area education agencies created by chapter 273.

(4) One member who is knowledgeable about telecommunications shall be appointed by the state board of regents.

(5) One member shall be appointed by the state board of education.

2. Board members shall serve a three-year term commencing on July 1 of the year of appointment. A vacancy shall be filled in the same manner as the original appointment for the remainder of the term.

Membership on the board does not constitute holding a public office and members shall not be required to take and file oaths of office before serving. A member shall not be disqualified from holding any public office or employment by reason of appointment to the board nor shall a member forfeit an office or employment by reason of appointment to the board.

3. The board shall appoint at least two advisory committees, each of which has no more than a simple majority of members of the same gender, as follows:

a. Advisory committee on the operation of the narrowcast system. The advisory committee shall be composed of members from among the users of the narrowcast system including representatives of institutions under the state board of regents, community colleges, area education agencies, classroom teachers, school district administrators, school district boards of directors, the department of economic development, the department of education, and private colleges and universities.

b. Advisory committee on journalistic and editorial integrity. The division shall be governed by the national principles of editorial integrity developed by the editorial integrity project.

Duties of the advisory committees, and of additional advisory committees the board may from time to time appoint, shall be specified in rules of internal management adopted by the board.

Members of advisory committees shall receive actual expenses incurred in performing their official duties.

Sec. 40. NEW SECTION. 256.83 MEETINGS.

1. The board shall elect from among its members a president and a vice president to serve a one-year term. The board shall meet at least four times annually and shall hold special meetings at the call of the president or in the absence of the president by the vice president or by the president upon written request of four members. The board shall establish procedures and requirements relating to quorum, place, and conduct of meetings.

2. Board members shall receive actual expenses incurred in performing their official duties.

Sec. 41. NEW SECTION. 256.84 POWERS — FACILITIES — RULES.

1. The board may purchase, lease, and improve property, equipment, and services for educational telecommunications including the broadcast and narrowcast systems, and may dispose of property and equipment when not necessary for its purposes. The board and division administrator may arrange for joint use of available services and facilities.

2. The board shall apply for channels, frequencies, licenses, and permits as necessary for the performance of the board's duties.

3. This section does not prohibit institutions under the state board of regents and community colleges under the department of education from owning, operating, improving, maintaining, and restructuring educational radio and television stations and transmitters now in existence or other educational narrowcast telecommunications systems and services. The institutions and schools may enter into agreements with the board for the lease or purchase of equipment and facilities.

4. The board may locate its administrative offices and production facilities outside the city of Des Moines.

5. The board shall adopt and update a design plan for educational telecommunications systems and services in this state. The design plan shall be updated at least every two years. Copies of the design plan and updated design plan shall be made available to the governor and members of the general assembly upon request. The plan shall include a list of public utilities and private telecommunications companies being utilized by the educational telecommunications system; the cost of the system; the fees or charges established for the system; and information on areas where construction is required because facilities are not available from private telecommunications companies.

6. The board shall establish guidelines for and may impose and collect fees and charges for services. Fees and charges collected by the board for services shall be deposited to the credit of the division. Any interest earned on these receipts, and revenues generated under subsection 7, shall be retained and may be expended by the division subject to the approval of the board.

7. The board may make and execute agreements, contracts, and other instruments with any public or private entity and may retain revenues generated from these contracts. State departments and agencies, other public agencies, and governmental subdivisions and private

entities including but not limited to institutions of higher education and nonpublic schools may enter into contracts and otherwise cooperate with the board.

8. The board may contract with engineers, attorneys, accountants, financial experts, and other advisors upon the recommendation of the administrator. The board may enter into contracts or agreements for such services with local, state, or federal governmental agencies.

9. The board may adopt rules to implement and administer the programs of the division.

10. The decision of the board is final agency action under chapter 17A.

Sec. 42. NEW SECTION. 256.85 PURCHASE OF ENERGY EFFICIENCY PACKAGES.

The public broadcasting division of the department of education may use the state of Iowa facilities improvement corporation to purchase energy efficiency packages for its ultrahigh frequency transmitters.

Sec. 43. NEW SECTION. 256.86 COMPETITION WITH PRIVATE SECTOR.

It is the intent of the general assembly that the division shall not compete with the private sector by actively seeking revenue from its operations. It is not the intent of the general assembly to prohibit the receipt of charitable contributions as defined by section 170 of the Internal Revenue Code. The board, the governor, or the administrator may apply for and accept federal or nonfederal gifts, loans, or grants of funds and may use the funds for projects under this chapter.

Sec. 44. NEW SECTION. 256.87 COSTS AND FEES – CAPITAL EQUIPMENT REPLACEMENT REVOLVING FUND.

1. The board may provide noncommercial production or reproduction services for other public agencies, nonprofit corporations or associations organized under state law, or other nonprofit organizations, and may collect the costs of providing the services from the public agency, corporation, association, or organization, plus a separate equipment usage fee in an amount determined by the board and based upon the equipment used. The costs shall be deposited to the credit of the board. The separate equipment usage fee shall be deposited in the capital equipment replacement revolving fund.

2. The board may establish a capital equipment replacement revolving fund into which shall be deposited equipment usage fees collected under subsection 1 and funds from other sources designated for deposit in the capital equipment replacement revolving fund. The board may expend moneys from the capital equipment replacement revolving fund to purchase technical equipment for operating the educational radio and television facility.

Sec. 45. NEW SECTION. 256.88 TRUSTS.

Notwithstanding section 633.63, the board may accept and administer trusts and may authorize nonprofit foundations acting solely for the support of educational telecommunications including the broadcast and narrowcast systems to accept and administer trusts deemed by the board to be beneficial to the operation of the educational radio and television facility. The board and the foundations may act as trustees in such instances.

Sec. 46. NEW SECTION. 256.89 STATE PLAN.

The board shall cause to be developed and adopt a state educational telecommunications design plan. Any agency of the state and any political subdivision of the state shall submit plans for the development of educational telecommunications systems to the board to be coordinated with the state educational telecommunications design plan adopted by the board. Private institutions and entities may submit educational telecommunications proposals for coordination.

Sec. 47. NEW SECTION. 256.90 NARROWCAST OPERATIONS.

The board shall not use, permit use, or permit resale of its telecommunications narrowcast system for other than educational purposes. The board, in the establishment and operation of its telecommunications narrowcast system, shall use facilities and services of the private telecommunications industry companies to the greatest extent possible and is prohibited from

constructing telecommunications facilities unless comparable facilities are not available from the private telecommunications industry at comparable quality and price.

Notwithstanding chapter 476, the provisions of chapter 476 shall not apply to a public utility in furnishing a telecommunications service or facility to the board.

Sec. 48. Section 303.1, Code 1993, is amended to read as follows:

303.1 DEPARTMENT OF CULTURAL AFFAIRS.

1. The department of cultural affairs is created. The department is under the control of a director who shall be appointed by the governor, subject to confirmation by the senate, and shall serve at the pleasure of the governor. The salary of the director shall be set by the governor within a range set by the general assembly.

2. The department has primary responsibility for development of the state's interest in the areas of the arts, history, ~~libraries,~~ and other cultural matters. In fulfilling this responsibility, the department will be advised and assisted by ~~the state library commission,~~ the state historical society and its board of trustees, and the Iowa arts council, ~~the Terrace Hill commission, and the Iowa public broadcasting board.~~

The department shall:

a. Develop a comprehensive, co-ordinated, and efficient policy to preserve, research, interpret, and promote to the public an awareness and understanding of local, state, and regional history.

b. ~~Stimulate and encourage educational radio and television and other educational communications services as necessary to aid in accomplishing the educational objectives of the state.~~

~~c.~~ Stimulate and encourage throughout the state the study and presentation of the performing and fine arts and public interest and participation in them.

~~d~~ c. Implement tourism-related art and history projects as directed by the general assembly.

e d. Design a comprehensive, statewide, long-range plan with the assistance of the Iowa arts council to develop the arts in Iowa. The department is designated as the state agency for carrying out the plan.

~~f. Meet the informational needs of the three branches of state government.~~

~~g. Provide for the improvement of library services to all Iowa citizens and foster development and cooperation among libraries.~~

3. The department shall consist of the following:

a. Historical division.

b. ~~Library division.~~

~~c.~~ Arts division.

~~d. Public broadcasting division.~~

e c. Other divisions created by rule.

f d. Administrative section.

4. The director may create, combine, eliminate, alter or reorganize the organization of the department by rule ~~except for those matters prescribed by sections 303.75 through 303.85.~~

5. The department by rule may establish advisory groups necessary for the receipt of federal funds or grants or the administration of any of the department's programs.

6. 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 administrator of the library division shall be appointed by and serve at the pleasure of the library commission.~~ The administrators shall:

a. Organize the activities of the division.

b. Submit a biennial report to the governor on the activities and an evaluation of the division and its programs and policies.

c. Control all property of the division.

d. Perform other duties imposed by law.

Sec. 49. Section 303.1A, unnumbered paragraphs 1, 2, and 3, Code 1993, are amended to read as follows:

~~Except for those matters prescribed by sections 303.75 through 303.85, the~~ The duties of the director shall include, but are not limited to, the following:

The director may appoint a member of the staff to be acting director who shall have the powers delegated by the director, in the director's absence. The

~~The~~ director may delegate the powers and duties of that office to the administrators. ~~The director is not liable for the activities of the division of public broadcasting.~~

Sec. 50. Section 303.2, subsection 1, Code 1993, is amended to read as follows:

1. The administrative services section shall provide administrative, accounting, public relations and clerical services for the department, report to the director and perform other duties assigned to it by the director~~, except for those matters prescribed by sections 303.75 through 303.85. The administrative services section may provide services to the public broadcasting division~~.

Sec. 51. Section 303.2, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 52. Section 331.381, subsection 11, Code 1993, is amended to read as follows:

11. Enforce the interstate library compact in accordance with sections ~~303A.9 to 303A.11~~ 256.70 through 256.73.

Sec. 53. Section 669.2, subsection 5, Code 1993, is amended to read as follows:

5. "State agency" includes all executive departments, agencies, boards, bureaus, and commissions of the state of Iowa, and corporations whose primary function is to act as, and while acting as, instrumentalities or agencies of the state of Iowa, whether or not authorized to sue and be sued in their own names. This definition does not include a contractor with the state of Iowa. Soil and water conservation districts as defined in section 161A.3, subsection 5, judicial district departments of correctional services as established in section 905.2, and regional boards of library trustees as defined in chapter ~~303B~~ 256, are state agencies for purposes of this chapter.

Sec. 54. Section 904.601, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The director shall keep the following record of every person committed to any of the department's institutions: Name, residence, sex, age, place of birth, occupation, civil condition, date of entrance or commitment, date of discharge, whether a discharge is final, condition of the person when discharged, the name of the institutions from which and to which the person has been transferred, and if the person is dead, the date and cause of death. The director may permit the ~~library~~ division of libraries and information services of the department of education and the historical division of the department of cultural affairs to copy or reproduce by any photographic, photostatic, microfilm, microcard, or other process which accurately reproduces in a durable medium and to destroy in the manner described by law the records of inmates required by this paragraph.

Sec. 55. Sections 256.22, 303.2A, 303.17, 303.75 through 303.85, 303.91 through 303.94, Code 1993, are repealed.

Sec. 56. Chapters 303A and 303B, Code 1993, are repealed.

Sec. 57. The Code editor shall divide chapter 256 into subchapters.

Sec. 58. TERRACE HILL COMMISSION FUNDING. On the effective date of this Act, the director of revenue and finance shall allocate to the department of general services any funds appropriated to the office of the governor for the fiscal year beginning July 1, 1993, and ending June 30, 1994, for the purposes of the Terrace Hill commission.

Approved April 27, 1993

CHAPTER 49

WALLACE TECHNOLOGY TRANSFER FOUNDATION

S.F. 335

AN ACT relating to the Wallace technology transfer foundation and providing an effective date.

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

Section 1. Section 15E.152, unnumbered paragraph 3, Code 1993, is amended to read as follows:

The foundation consists of a board of directors, an advisory council, ~~an executive director,~~ and staff.

Sec. 2. Section 15E.153, Code 1993, is amended to read as follows:

15E.153 AUTHORIZED CORPORATION.

A Wallace technology transfer foundation of Iowa shall be incorporated under chapter 504A. The foundation shall not be regarded as a state agency, except for purposes of chapter 17A. A member of the board of directors is not considered a state employee, except for purposes of chapter 669. ~~The executive director is a state employee for purposes of the Iowa public employees' retirement system, state health and dental plans, and other state employee benefits and chapter 669.~~ A natural person employed by the ~~executive director~~ foundation is a state employee for purposes of the Iowa public employees' retirement system, state health and dental plans, and other state employee benefits plans and chapter 669. Chapters 8, 18, 19A, and 20, and other provisions of law that relate to requirements or restrictions dealing with state personnel or state funds do not apply to the foundation, ~~the executive director,~~ and any employees of the board or the foundation, except to the extent provided in this chapter.

Sec. 3. Section 15E.154, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

15E.154 BOARD OF DIRECTORS.

1. The board of directors of the foundation shall consist of nine voting members and nine ex officio nonvoting members as follows:

a. Nine members appointed by the governor and confirmed by the senate pursuant to section 2.32 for the terms determined by the board at its first meeting which shall not exceed three years. Of these nine members, two shall be chosen from the three names submitted by the governing bodies of the three statewide labor organizations representing building trades and manufacturing employees, one shall be chosen from production agriculture, at least one shall be chosen from a food processing business, at least one shall be chosen from a biotechnology business, and at least two shall be chosen from manufacturing businesses. Also, two of these members shall be chosen from businesses with fewer than one hundred employees.

b. The following nine ex officio, nonvoting members with one member appointed by each of the following persons: the speaker of the house of representatives, the minority leader of the house of representatives, the president of the senate, after consultation with the majority leader and the minority leader of the senate, and the minority leader of the senate, after consultation with the president of the senate, the president, or the president's designee, of the university of northern Iowa, the state university of Iowa, and Iowa state university, one person each, with a preference given to persons with experience in manufacturing technology transfer, chosen by the Iowa association of community college presidents and the Iowa association of independent colleges and universities.

2. The board of directors shall be bipartisan and gender-balanced in accordance with sections 69.16 and 69.16A and shall be as geographically balanced as possible. The appointing authorities in subsection 1 shall coordinate their appointments to ensure that the provisions of this subsection are met.

3. The terms of the members shall be staggered as determined by vote of the board at its first meeting after July 1, 1993. A vacancy shall be filled by the appointing authority. Members are eligible for actual expense reimbursement while fulfilling duties of the board. The board shall elect a chairperson from among its members.

Sec. 4. Section 15E.155, subsection 9, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

9. To perform the following duties:

a. Employ and direct staff to operate and manage the foundation under the direction of the board. Foundation staff shall not also be employed by a state agency or department after June 30, 1994.

b. Receive and approve an annual report of the foundation's activities and fiscal condition, including:

(1) Matters relating to operations and accomplishments.

(2) A summary of receipts and expenditures, in accordance with the classifications the board establishes for its operating accounts.

(3) A summary of assets and liabilities and the status of special accounts.

(4) A statement of proposed and projected activities.

(5) Recommendations to the general assembly.

(6) An identification of performance goals of the foundation and the extent of progress during the reporting period in attaining the goals.

c. Collect pertinent information on research in process and funding requests where appropriate at Iowa state university of science and technology, the university of Iowa, and the university of northern Iowa for the purpose of encouraging technology transfer where appropriate.

d. Carry out the duties specified in section 15E.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 shall review all contracts annually and may delay renewal of a contract if all contractual obligations were not fulfilled during the preceding year. This annual review shall not deprive the foundation of any other remedy for a breach of the contract by a community college.

Sec. 5. Section 15E.155, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 17. To broker relationships furthering the mission of the foundation among state board of regents institutions of higher education, community colleges, and private colleges and universities and private investors, entrepreneurs, and executives of existing businesses.

NEW SUBSECTION. 18. To promote communication, inventory resources, and assist in the coordination of business and technology assistance activities of state board of regents institutions, community colleges, and private colleges and universities with the private sector, the department of economic development, and local and regional economic development groups.

Sec. 6. Section 15E.166, Code 1993, is amended to read as follows:

15E.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~~ foundation 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~~ foundation.

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. 7. Section 15E.156, Code 1993, is repealed.

Sec. 8. The terms of the standing, appointed, and ex officio members of the board of directors existing on the effective date of section 3 of this Act are terminated at midnight on June 30, 1993.

Sec. 9. Section 3 of this Act, as it applies to the appointment of members of the board of directors, takes effect upon enactment. The remaining sections of this Act take effect on July 1, 1993.

Approved April 27, 1993

CHAPTER 50

IOWA PLANE COORDINATE SYSTEM

S.F. 343

AN ACT relating to standards for land surveying by designating an Iowa plane coordinate system.

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

Section 1. NEW SECTION. 355.16 IOWA PLANE COORDINATE SYSTEM DEFINED.

As used in this section, and sections 355.17 through 355.19, unless the context otherwise requires, "Iowa plane coordinate system" or "coordinate system" means the system of plane coordinates established by the United States national ocean survey, or the United States national geodetic survey, or a successor agency, for defining and stating the geographic positions or locations of points on the surface of the earth within the state of Iowa.

Sec. 2. NEW SECTION. 355.17 DESIGNATION OF COORDINATE ZONES.

The Iowa plane coordinate system is divided into two zones designated as follows:

1. a. The area now included in the following counties constitutes the north zone: Allamakee, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cerro Gordo, Cherokee, Chickasaw, Clay, Clayton, Crawford, Delaware, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Greene, Grundy, Hamilton, Hancock, Hardin, Howard, Humboldt, Ida, Jackson, Jones, Kossuth, Linn, Lyon, Marshall, Mitchell, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux, Story, Tama, Webster, Winnebago, Winneshiek, Woodbury, Worth, and Wright.

b. The coordinate system north zone is a Lambert conformal conic projection of the north American datum of 1983, having standard parallels at north latitudes forty-two degrees, four minutes, and forty-three degrees, sixteen minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian ninety-three degrees, thirty minutes west of Greenwich, and the parallel forty-one degrees, thirty minutes north latitude. This origin is given the coordinates: x equals one million five hundred thousand meters exact and y equals one million meters exact.

2. a. The area now included in the following counties constitutes the south zone: Adair, Adams, Appanoose, Audubon, Cass, Cedar, Clarke, Clinton, Dallas, Davis, Decatur, Des Moines, Fremont, Guthrie, Harrison, Henry, Iowa, Jasper, Jefferson, Johnson, Keokuk, Lee, Louisa, Lucas, Madison, Mahaska, Marion, Mills, Monroe, Montgomery, Muscatine, Page, Polk, Pottawattamie, Poweshiek, Ringgold, Scott, Shelby, Taylor, Union, Van Buren, Wapello, Warren, Washington, and Wayne.

b. The coordinate system south zone is a Lambert conformal conic project of the north American datum of 1983, having standard parallels at north latitudes forty degrees, thirty-seven minutes, and forty-one degrees, forty-seven minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian ninety-three degrees, thirty minutes west of Greenwich, and the parallel forty degrees, zero minutes north latitude. This origin is given the coordinates: x equals five hundred thousand meters exact and y equals zero meters exact.

Sec. 3. NEW SECTION. 355.18 IDENTIFICATION OF GEOGRAPHIC LOCATIONS.

The plane coordinate values for a point on the earth's surface used to express the geographic position or location of the point in the appropriate zone of the coordinate system shall consist of two distances expressed in meters and decimals of a meter. One of these distances, to be known as the "x-coordinate", shall give the position in an east-and-west direction; the other, to be known as the "y-coordinate", shall give the position in a north-and-south direction. These coordinates shall be made to depend upon and conform to plane rectangular coordinate values for the monumented points of the north American horizontal geodetic control network as published by the United States national ocean survey, or the United States national geodetic survey, or a successor agency. Any monumented point may be used for establishing a survey connection to the coordinate system.

Sec. 4. NEW SECTION. 355.19 APPLICATION OF TERMS.

The use of the term "Iowa plane coordinate system north zone" or "Iowa plane coordinate system south zone" on a map, report of survey, or other document shall be limited to coordinates based on the Iowa plane coordinate system as defined in this chapter.

Approved April 27, 1993

CHAPTER 51

RENEWAL OF DRIVER'S LICENSES BY MAIL

S.F. 374

AN ACT relating to the state department of transportation concerning renewal of driver's licenses by mail.

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

Section 1. Section 321.196, Code 1993, is amended to read as follows:

321.196 EXPIRATION OF LICENSE — RENEWAL — ~~VISION TEST OR REPORT MANDATORY~~.

Except as otherwise provided, a motor vehicle license, other than an instruction permit, chauffeur's instruction permit, or commercial driver's instruction permit issued under section 321.180, expires, at the option of the applicant, two or four years from the licensee's birthday anniversary occurring in the year of issuance if the licensee is between the ages of seventeen years eleven months and seventy years on the date of issuance of the license. If the licensee is under the age of seventeen years eleven months or age seventy or over the license is effective for a period of two years from the licensee's birthday anniversary occurring in the year of issuance. Except as required in section 321.188, a motor vehicle license is renewable without written examination or penalty within a period of sixty days after its expiration date. A person shall not be considered to be driving with an invalid license during a period of sixty days following the license expiration date. However, for a license renewed within the sixty-day period, the date of issuance shall be considered to be the previous birthday anniversary on which it expired. Applicants whose licenses are restricted due to vision or other physical deficiencies may be required to renew their licenses every two years. For the purposes of this section the birthday anniversary of a person born on February 29 shall be deemed to occur on March 1. The department in its discretion may authorize the renewal of a valid motor vehicle license other than a commercial driver's license upon application without an examination provided that the applicant ~~either~~ satisfactorily passes a vision test as prescribed by the department, ~~or~~ files a vision report in accordance with section 321.186A which shows that the applicant's visual acuity level meets or exceeds those required by the department, or is eligible for renewal by mail pursuant to rules adopted by the department. The department may assess an applicant a fee of no more than two dollars for administration and mailing expenses for providing for renewal of the applicant's driver's license by mail.

Any resident of Iowa holding a valid motor vehicle license who is temporarily absent from the state, or incapacitated, may, at the time for renewal for such license, apply to the department for a temporary extension of the license. The department upon receipt of the application shall, upon a showing of good cause, issue a temporary extension of the motor vehicle license for a period not to exceed six months.

Approved April 27, 1993

CHAPTER 52

EDUCATION STANDARDS — WAIVERS

H.F. 452

AN ACT extending the waiver provision for the education standards requiring an articulated sequential elementary-secondary guidance program and a media services program to support the total curriculum.

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

Section 1. Section 256.11A, subsection 3, unnumbered paragraph 1, and subsection 4, unnumbered paragraph 1, Code 1993, 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~~ school or school district operating a kindergarten through grade twelve program to provide an articulated sequential elementary-secondary guidance program may, not later than ~~January 1, 1989~~ August 1, 1993, for the school year beginning July 1, ~~1989~~ 1993, 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 August 1, ~~1992~~ 1994, for the school year beginning July 1, ~~1992~~ 1994, the board of directors of a school district or the authorities in charge of a nonpublic school may request a 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 August 1, ~~1992~~ 1993, for the school year beginning July 1, ~~1992~~ 1993, 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 to establish and operate a media services program to support the total curriculum for that district or school. The procedures specified in subsection 5 apply to the request. Not later than August 1, 1994, for the school year beginning July 1, 1994, the board of directors of a school district or the authorities in charge of a nonpublic school may request an additional one-year extension of the waiver.

Approved April 27, 1993

CHAPTER 53

DEPARTMENT OF INSPECTIONS AND APPEALS — MISCELLANEOUS PROVISIONS

H.F. 484

AN ACT relating to the authority of the department of inspections and appeals by providing for the collection of debts owed to the department of human services, by providing for the licensure of certain facilities as psychiatric medical institutions for children, by authorizing access to criminal histories to certain tribal gaming officials, and by providing an effective date.

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

DIVISION I
RECOVERY OF DEBT

Section 1. Section 10A.104, subsection 6, Code 1993, is amended to read as follows:

6. Issue subpoenas and distress warrants, administer oaths, and take depositions in connection with audits, appeals, investigations, inspections, and hearings conducted by the department. If a person refuses to obey a subpoena or distress warrant issued by the department or otherwise fails to cooperate in proceedings of the department, the director may enlist the assistance of a court of competent jurisdiction in requiring the person's compliance. Failure to obey orders of the court renders the person in contempt of the court and subject to penalties provided for that offense.

Sec. 2. Section 10A.402, subsection 5, Code 1993, is amended to read as follows:

5. Investigations and collections relative to the liquidation of overpayment debts owed to the department of human services. Collection methods include but are not limited to small claims filings, debt setoff, distress warrants, and repayment agreements, and are subject to approval by the department of human services.

Sec. 3. Section 626.29, Code 1993, is amended to read as follows:

626.29 DISTRESS WARRANT BY DIRECTOR OF REVENUE AND FINANCE, DIRECTOR OF INSPECTIONS AND APPEALS, OR JOB SERVICE COMMISSIONER.

In the service of a distress warrant issued by the director of revenue and finance for the collection of income tax, sales tax, motor vehicle fuel tax, freight line and equipment car tax, hotel and motel tax, or use tax, in the service of a distress warrant issued by the director of inspections and appeals for the collection of overpayment debts owed to the department of human services, or in the service of a distress warrant issued by the job service commissioner of the department of employment services for the collection of employment security contributions, the property of the taxpayer or the employer in the possession of another, or debts due the taxpayer or the employer, may be reached by garnishment.

Sec. 4. Section 626.30, Code 1993, is amended to read as follows:

626.30 EXPIRATION OR RETURN OF DISTRESS WARRANT.

Proceedings by garnishment under a distress warrant issued by the Iowa director of revenue and finance or the director of inspections and appeals shall not be affected by its expiration or its return.

Sec. 5. Section 626.31, Code 1993, is amended to read as follows:

626.31 RETURN OF GARNISHMENT — ACTION DOCKETED — DISTRESS ACTION.

Where parties have been garnished under a distress warrant issued by the director of revenue and finance or the director of inspections and appeals, the officer shall make return thereof to the court in the county where the garnishee lives, if the garnishee lives in Iowa, otherwise in the county where the taxpayer resides, if the taxpayer lives in Iowa; and if neither the garnishee nor the taxpayer lives in Iowa, then to the district court in Polk county, Iowa; the officer shall make return in the same manner as a return is made on a garnishment made under a writ of execution so far as they relate to garnishments, and the clerk of the district court shall

docket an action thereon without fee the same as if a judgment had been recovered against the taxpayer in the county where the return is made, an execution issued thereon, and garnishment made thereunder, and thereafter the proceedings shall conform to proceedings in garnishment under attachments as nearly as may be.

DIVISION II
PSYCHIATRIC HOSPITAL FOR CHILDREN

Sec. 6. Section 135H.4, Code 1993, is amended to read as follows:

135H.4 LICENSURE.

A person shall not establish, operate, or maintain a psychiatric medical institution for children unless the person obtains a license for the institution under this chapter and holds either a license under section 237.3, subsection 2, paragraph "a", subparagraph (3) or, for facilities which provide substance abuse treatment, a license under section 125.13.

Sec. 7. Section 135H.6, subsection 2, Code 1993, is amended to read as follows:

2. The proposed psychiatric institution is accredited ~~to provide psychiatric services~~ by the joint commission on the accreditation of health care organizations ~~under the commission's consolidated standards for residential settings~~.

DIVISION III
GAMING

Sec. 8. Section 692.2, subsection 1, Code 1993, is amended by adding the following new lettered paragraph:

NEW PARAGRAPH. j. To tribal officials, tribal gaming commissions, or tribal regulatory agency members of a federally recognized Indian tribe engaged in gaming within the state, who are directly responsible for authorized gaming background investigations or licensing pursuant to the Iowa gaming compact.

Sec. 9. EFFECTIVE DATE. Section 8 and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 27, 1993

CHAPTER 54

ABOLISHMENT OF COUNTY BOARDS OF SOCIAL WELFARE
H.F. 538

AN ACT repealing provisions relating to and abolishing the county boards of social welfare and providing an effective date.

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

Section 1. Section 217.30, subsection 4, paragraph c, Code 1993, is amended to read as follows:

c. The department shall prepare and file in its office on or before the thirtieth day of each January, April, July, and October a report showing the names and last known addresses of all recipients of assistance under sections 249.2 to 249.4 ~~or~~ and chapters 239 or 249A, together with the amount paid to or for each recipient during the preceding calendar quarter. The report shall contain a separate section for each county, including all such recipients whose last known addresses are in the county. The department shall prepare and file in the office of each county board of ~~social welfare~~ supervisors a copy of the county section of each report for that county, on or before the same day specified in this paragraph. Each report shall be securely fixed in

a record book to be used only for such reports. Each record book shall be a public record, open to public inspection at all times during the regular office hours of the office where filed. Each person who examines the record shall first sign a written agreement that the signer will not use any information obtained from the record for commercial or political purposes.

Sec. 2. Section 217.43, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The county cluster board shall act in an advisory capacity on programs within the jurisdiction of the department. The board shall review policies and procedures of the local departments of human services and make recommendations for changes to ensure that effective services are provided in the respective communities. The board may also make recommendations for new programs which it is believed could meet needs in the community. The board shall not duplicate the efforts of other county planning entities required by the state by performing reviews and developing recommendations concerning services to persons with mental illness, mental retardation, developmental disabilities, and brain injury. The department shall establish a procedure to ensure that county cluster board recommendations receive appropriate review at the level of policy determination. In addition, a county cluster board shall perform emergency relief functions in accordance with section 251.5.

Sec. 3. Section 234.1, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 4. Section 237A.1, subsection 6, Code 1993, is amended by striking the subsection.

Sec. 5. Section 249A.2, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 6. Section 251.3, subsection 1, Code 1993, is amended to read as follows:

1. Appoint such personnel as may be necessary for the efficient discharge of the duties imposed upon ~~it~~ the administrator in the administration of emergency relief, and to make such rules and regulations as ~~it~~ the administrator deems necessary or advisable covering ~~its~~ the administrator's activities and those of the county cluster boards created under section 217.43, concerning emergency relief.

Sec. 7. Section 251.5, Code 1993, is amended to read as follows:

251.5 DUTIES OF THE COUNTY CLUSTER BOARD ~~OF SOCIAL WELFARE~~.

~~The~~ A county cluster board ~~of social welfare~~ created in section 217.43 shall perform the following activities for any county in the board's county cluster concerning emergency relief:

1. ~~Co-operate~~ Cooperate with ~~the county~~ a county's board of supervisors in all matters pertaining to administration of relief.

2. At the request of ~~the county~~ a county's board of supervisors, prepare requests for grants of state funds.

3. At the request of ~~the county~~ a county's board of supervisors, administer county relief funds.

4. In ~~counties~~ a county receiving grants of state funds upon approval of the director of revenue and finance and the county's board of supervisors, administer both state and county relief funds.

5. Perform ~~such~~ other duties as may be prescribed by the administrator and ~~the county~~ a county's board of supervisors.

Sec. 8. Section 251.7, Code 1993, is amended to read as follows:

251.7 COUNTY ~~DIRECTORS~~ APPOINTEES TO ACT AS EXECUTIVE OFFICERS.

The county ~~director of social welfare is~~ board of supervisors may appoint an individual to serve as the executive officer of the county cluster board ~~of social welfare~~ in all matters pertaining to relief for that county.

Sec. 9. Section 252.6, Code 1993, is amended to read as follows:

252.6 ENFORCEMENT OF LIABILITY.

Upon the failure of such relatives to assist or maintain a poor person who has made application for assistance, the county board of supervisors, county ~~social welfare~~ cluster board created under section 217.43, or state division of child and family services of the department of human services may apply to the district court of the county where the poor person resides or may be found, for an order to compel the assistance or maintenance.

Sec. 10. Section 331.321, subsection 1, paragraph g, Code 1993, is amended to read as follows:

g. The members of the county cluster board ~~of social welfare~~ in accordance with section ~~234.9~~ 217.43.

Sec. 11. Section 598.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A majority of the judges in any judicial district, with the ~~co-operation~~ cooperation of any county board of ~~social welfare~~ supervisors in ~~such~~ the district, may establish a domestic relations division of the district court of the county where ~~such~~ the board is located. ~~Said~~ The division shall offer counseling and related services to persons before ~~such~~ the court.

Sec. 12. Sections 234.9, 234.10, 234.11, 237A.13, 237A.14, 237A.15, 237A.16, 237A.17, and 237A.18, Code 1993, are repealed.

Sec. 13. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 27, 1993

CHAPTER 55

VITAL RECORDS MODERNIZATION PROJECT

H.F. 541

AN ACT relating to vital records by directing the Iowa department of public health to implement a vital records modernization project and providing an appropriation.

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

Section 1. VITAL RECORDS MODERNIZATION PROJECT.

1. The Iowa department of public health shall develop and implement a four-year project for modernizing vital records during the period beginning July 1, 1993, and ending June 30, 1997. The project shall include provisions for purchase of an electronic system for vital records scanning, data capture, storage, retrieval, and issuance activities. Other project provisions shall include streamlining of administrative procedures and electronically linking offices of clerks of the district court with the state vital records so the records may be issued at the county level.

2. The department shall adopt rules providing for an increase in the fees charged by the state registrar for vital records services pursuant to section 144.46. The fee increase implemented pursuant to this section shall not apply to the fees charged by the clerks of the district court for vital records services. The increased fee shall apply for the period beginning July 1, 1993, and ending June 30, 1997. The fee increase shall be in an amount necessary to implement the vital records modernization project in accordance with the provisions of subsection 1. The revenue derived from the amount of the fee increase is appropriated to the Iowa department of public health for the duration of the project and shall be used for the costs of the project. Notwithstanding section 8.33, moneys appropriated to the department pursuant to this section which remain unexpended at the end of a fiscal year shall not revert to the general fund of the state but shall remain available in the succeeding fiscal year for the purposes for which they were appropriated.

3. The project shall be completed on or before June 30, 1997, and existing vital records shall be converted to the electronic system by that date. Moneys appropriated pursuant to this section which remain unexpended on June 30, 1997, shall revert to the general fund of the state. For

the fiscal year beginning July 1, 1997, and succeeding fiscal years, the provisions of section 144.46, requiring the vital records fee to be set by rule based on the average administrative costs, shall apply.

Approved April 27, 1993

CHAPTER 56

COMMUNITY ACTION AGENCY BOARDS
H.F. 565

AN ACT relating to membership of community action agency boards and providing effective and retroactive applicability dates.

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

Section 1. Section 216A.94, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A recognized community action agency shall be governed by a board of directors composed of at least ~~fifteen~~ nine members ~~but not more than thirty-three members~~. The board membership shall be as follows:

Sec. 2. EFFECTIVE DATE – APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1993.

Approved April 27, 1993

CHAPTER 57

SANITARY DISTRICTS
H.F. 603

AN ACT relating to sanitary districts by providing for the funding of sanitary districts by special assessment and the disposition of property after annexation.

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

Section 1. Section 358.22, unnumbered paragraphs 1 and 2, Code 1993, are amended to read as follows:

The board of trustees of a sanitary district may provide for payment of all or any portion of the costs of acquiring, locating, laying out, constructing, reconstructing, repairing, changing, enlarging, or extending conduits, ditches, channels, outlets, drains, sewers, laterals, treatment plants, pumping plants, and other necessary adjuncts thereto, by assessing all, or any portion of the costs, on adjacent property according to the benefits derived. For the purposes of this chapter, the board of trustees may define "adjacent property" as all that included within a designated benefited district or districts to be fixed by the board, which may be all of the property located within the sanitary district or any lesser portion of that property. It is not a valid objection to a special assessment that the improvement for which the assessment is levied is outside the limits of the sanitary district, but a special assessment shall not be made upon property situated outside of the sanitary district. Special assessments pursuant to this

section shall be in proportion to the special benefits conferred upon the property, and not in excess of the benefits, and an assessment shall not exceed twenty-five percent of the ~~actual~~ value of the property at the time of levy~~, and the last preceding assessment roll shall be taken as prima facie evidence of that value~~. The value of a property is the present fair market value of the property with the proposed public improvements completed. Payment of installments of a special assessment against property used and assessed as agricultural property shall be deferred upon the filing of a request by the owner in the same manner and under the same procedures as provided in chapter 384 for special assessments by cities.

The assessments may be made to extend over a period ~~of ten~~ not to exceed fifteen years, payable in as nearly equal annual installments as practicable. A majority vote of the board of trustees is requisite and sufficient for any action required by the board of trustees under this section.

Sec. 2. NEW SECTION. 358.30 ANNEXATION OF LAND BY A CITY.

A sanitary district shall be fairly compensated for losses resulting from annexation. The governing body of a city or city utility and the board of trustees of the sanitary district may agree to terms which provide that the facilities owned by the sanitary district and located within the city shall be retained by the sanitary district for the purpose of sanitary service to customers outside the city. If an agreement is not reached within ninety days, the issues may be submitted to arbitration. 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 sanitary district's board of 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 another recognized arbitration organization or association.

Approved April 27, 1993

CHAPTER 58

EMERGENCY MEDICAL SERVICES

S.F. 48

AN ACT designating the Iowa department of public health as the lead agency for the coordination and regulation of emergency medical services and establishing an emergency medical services fund.

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

Section 1. NEW SECTION. 135.25 EMERGENCY MEDICAL SERVICES FUND.

An emergency medical services fund is created in the state treasury under the control of the department. The fund includes, but is not limited to, amounts appropriated by the general assembly, and other moneys available from federal or private sources which are to be used for purposes of this section. Funds remaining in the fund at the end of each fiscal year shall not revert to the general fund of the state but shall remain in the emergency medical services fund, notwithstanding section 8.33. The fund is established to assist counties by matching, on a dollar-for-dollar basis, moneys spent by a county for the acquisition of equipment for the provision of emergency medical services and by providing grants to counties for education and training in the delivery of emergency medical services, as provided in this section and section 422D.6. A county seeking matching funds under this section shall apply to the emergency medical services division of the department. The department shall adopt rules concerning the application and awarding process for the matching funds and the criteria for the allocation of moneys in the fund if the moneys are insufficient to meet the emergency medical services needs of the counties.

Sec. 2. NEW SECTION. 147A.1A LEAD AGENCY.
The department is designated as the lead agency for coordinating and implementing the provision of emergency medical services in this state.

Sec. 3. Section 147A.4, subsection 2, Code 1993, is amended to read as follows:
2. The ~~board~~ department shall adopt rules required or authorized by this chapter pertaining to the examination and certification of advanced emergency medical care providers. These rules shall include, but need not be limited to, requirements concerning prerequisites, training, and experience for advanced emergency medical care providers and procedures for determining when individuals have met these requirements. The department shall consult with the board concerning these rules.
3. The ~~board~~ department shall establish the fee for the examination of the advanced emergency medical care providers to cover the administrative costs of the examination program.

Sec. 4. Section 147A.7, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 1A. If clinical issues are involved, the matter shall be referred to the board for completion of the investigation and the conduct of any disciplinary proceeding pursuant to chapter 17A. The findings of the board shall be the final decision for purposes of section 17A.15 and shall be enforced by the department.

Sec. 5. Section 147A.8, Code 1993, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. The department shall consult with the board concerning rules and training requirements related to this section.

Sec. 6. Section 147A.9, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 4. The department shall consult with the board concerning rules related to this section.

Sec. 7. Sections 147A.1, subsections 1 and 2, 147A.6, 147A.7, subsections 2 and 3, 147A.8, subsections 1 and 2, and 147A.9, Code 1993, are amended by striking the word "board" and inserting in lieu thereof the word "department".

Approved April 28, 1993

CHAPTER 59

SPECIAL EDUCATION — INSTRUCTION IN BRAILLE READING AND WRITING
S.F. 254

AN ACT to broaden the definition of children requiring special education to include children who retain some sight but who have a medically diagnosed expectation of visual deterioration and to provide for related matters.

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

Section 1. Section 256.7, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 24. Adopt rules that include children who retain some sight but who have a medically diagnosed expectation of visual deterioration within the definition of children requiring special education pursuant to section 256B.2, subsection 1. Rules adopted pursuant to this subsection shall provide for or include, but are not limited to, the following:
a. A presumption that proficiency in braille reading and writing is essential for satisfactory educational progress for a visually impaired student who is not able to communicate in print with the same level of proficiency as a student of otherwise comparable ability at the same

grade level. This presumption includes a student as defined in paragraph "b". A student for whom braille services are appropriate, as defined in this subsection, is entitled to instruction in braille reading and writing that is sufficient to enable the pupil to communicate with the same level of proficiency as a pupil of otherwise comparable ability at the same grade level.

b. A pupil who retains some sight but who has a medically diagnosed expectation of visual deterioration in adolescence or early adulthood may qualify for instruction in braille reading and writing.

c. Instruction in braille reading and writing may be used in combination with other special education services appropriate to a pupil's educational needs.

d. The annual review of a pupil's individual education plan shall include discussion of instruction in braille reading and writing and a written explanation of the reasons why the pupil is using a given reading and writing medium or media. If the reasons have not changed since the previous year, the written explanation for the current year may refer to the fuller explanation from the previous year.

e. A pupil as defined in paragraph "b" whose primary learning medium is expected to change may begin instruction in the new medium before it is the only medium the pupil can effectively use.

f. A pupil who receives instruction in braille reading and writing pursuant to this subsection shall be taught by a teacher licensed to teach students with visual impairments.

Sec. 2. Section 301.10, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

301.10 TEXTBOOK SUPPLIERS.

A person or firm desiring to furnish books or supplies under this chapter shall do all of the following:

1. At or before the time of filing a bid, make available samples of all textbooks included in the bid, accompanied by lists giving the lowest wholesale and contract prices for the textbooks.

2. If requested by the department of education, make available a machine-readable version of a textbook purchased by a school district to the department in the best available format for electronic braille translation.

Sec. 3. The department of education shall prepare and distribute information describing the benefits of instruction in braille reading and writing to a person assisting in the development of an individualized education plan of a pupil with vision impairment, including appendix E to the guidelines for programs serving pupils with visual impairments published by the bureau of special education of the department.

Approved April 28, 1993

CHAPTER 60

DIVISION OF INSURANCE – MISCELLANEOUS REGULATORY PROVISIONS

S.F. 271

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, loan brokers, and membership organizations.

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

Section 1. NEW SECTION. 503A.1 DEFINITIONS.

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

1. "Buying club" means a corporation, partnership, unincorporated association, or other business enterprise which sells or offers for sale to the public generally memberships or certificates of membership.

2. "Membership" means certificates, memberships, shares, bonds, contracts, stocks, or agreements of any kind or character issued upon any plan offered generally to the public entitling the holder to purchase merchandise, materials, equipment, or service, either from the issuer or another person designated by the issuer, either under a franchise or otherwise, whether it be at a discount, at cost plus a percentage, at cost plus a fixed amount, at a fixed price, or on any other similar basis.

3. "Contract" means the agreement by which a person acquires a membership in a buying club.

Sec. 2. NEW SECTION. 503A.2 EXEMPTIONS.

This chapter does not apply to any of the following:

1. Building and loan associations, state or national banks, insurance companies and associations, mutual or cooperative telephone companies organized under chapter 491 which have been determined to be exempt from taxation under 501(c)(12) of the Internal Revenue Code.

2. Corporations and cooperative associations subject to regulation under chapter 497, 498, or 499.

3. The sale of membership camping contracts by persons or entities registered or exempt under chapter 557B.

4. The sale of physical exercise club contracts by persons or entities registered under chapter 552.

5. Corporations, partnerships, unincorporated associations, or other business enterprises which sell or offer for sale memberships to an individual or to a family unit for consideration of no more than fifty dollars for a one-year period. Consideration for this purpose includes but is not limited to the amount of any required purchase under the terms of the contract.

6. The sale of goods or services by corporations, partnerships, unincorporated associations, or other business enterprises which sell products to direct sellers as defined by section 3508 of the Internal Revenue Code, where the initial contract establishing the relationship with the direct seller is terminable at will by either party, and where the corporation, partnership, unincorporated association, or other business enterprise offers to repurchase the products at reasonable commercial terms.

For purposes of subsection 6, "reasonable commercial terms" includes the repurchase of all unencumbered products which are in an unused, commercially resalable condition within one year from the direct seller's date of purchase. The repurchase shall be at a price not less than ninety percent of the original net cost to the direct seller of the products being returned. "Original net cost" means the amount actually paid by the direct seller for the products, less any consideration received by the direct seller for the purchase of the products being returned. Products which are no longer marketed by a program shall be deemed resalable if the products are otherwise in an unused, commercially resalable condition and are returned to the seller within one year from the direct seller's date of purchase, provided, however, that products which are no longer marketed by a program shall not be deemed resalable if the

products are sold to direct sellers as nonreturnable, discontinued, seasonal, or special promotion items and the nonreturnable nature of the product was clearly disclosed to the direct seller prior to purchase.

Sec. 3. NEW SECTION. 503A.3 RIGHT OF CANCELLATION — REQUIREMENT OF WRITING.

The requirements of sections 555A.1 through 555A.5, relating to door-to-door sales, shall apply to sales of buying club memberships, irrespective of the place or manner of sale or the purpose for which they are purchased. In addition to the requirements of chapter 555A, a contract shall not be enforceable against a person acquiring a membership in a buying club unless the contract is in writing and signed by the purchaser.

Sec. 4. NEW SECTION. 503A.4 LIMITATION ON MEMBERSHIP PERIOD.

A contract shall not be valid for a term longer than eighteen months from the date on which the contract is signed. However, a buying club may allow a member to convert the contract into a contract for a period longer than eighteen months after the member has been a member of the club for at least one year. The duration of the contract shall be clearly and conspicuously disclosed in the contract in bold-face type of a minimum size of fourteen points.

Sec. 5. NEW SECTION. 503A.5 REMEDIES.

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

2. The rights, obligations, and remedies provided in this chapter shall be in addition to any other rights, obligations, or remedies provided by law or in equity.

3. In addition to the remedies otherwise provided by law, any person injured by a violation of this chapter may bring a civil action and recover damages, together with costs, including reasonable attorney's fees, and receive other equitable relief as determined by the court.

Sec. 6. Section 505.1, Code 1993, is amended to read as follows:

505.1 INSURANCE DIVISION CREATED.

An insurance division is created within the department of commerce to regulate and supervise the conducting of the business of insurance in the state. The commissioner of insurance is the chief executive officer of the division. As used in this chapter, the rest of the insurance title, and chapters 502, ~~503,~~ and 535C, "division" means the insurance division.

Sec. 7. Section 523C.2, Code 1993, is amended to read as follows:

523C.2 LICENSE REQUIRED.

A person shall not issue a residential service contract or undertake or arrange to perform services pursuant to a residential service contract unless the person is a corporation or other form of organization approved by the commissioner by rule and is a licensed service company.

Sec. 8. Section 523C.8, Code 1993, is amended to read as follows:

523C.8 REBATES AND COMMISSIONS.

A service company shall not pay a commission or any other consideration 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~~ a marketing or sales 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 company or organization which is entitled to share in any real estate commission generated by the underlying real property transaction. This section also does not prohibit fees, payments, or reimbursements for bona fide ~~payments or reimbursements for inspection fees~~ inspections, 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. 9. NEW SECTION. 523C.8A ISSUANCE OF RESIDENTIAL SERVICE CONTRACT WITHOUT CONSIDERATION PROHIBITED.

1. Except as provided in subsection 2, furnishing a residential service contract to any person without charge for the applicable contract fees constitutes a violation of this chapter. A residential service contract providing for listing period coverage shall not be issued or delivered unless it provides for consideration for such coverage. The consideration may consist of a bona fide promise to pay the applicable residential service contract fees at the close of the sale. However, if a contract is subsequently cancelled as a result of the failure to close such a sale, including such failure due to cancellation, expiration, or other termination of any real estate listing agreement on the residence, the residential service contract holder shall pay to the service company, at the time of cancellation of the residential service contract, the lesser of the actual costs of such service or a pro rata portion of the applicable annual residential service contract fees based on the number of days the residential service contract remained in effect, together with administrative costs incurred by the service company as a result of the cancellation.

2. a. Notwithstanding subsection 1, a service company may offer a residential service contract providing for listing period coverage for consideration which consists of both of the following:

(1) The contract holder's bona fide promise to pay, upon the close of sale, the applicable residential service contract fees for coverage of the residence for at least one year from the close of sale.

(2) Actual payment of the costs of any and all services performed under the residential service contract during the term of the listing period coverage by the contract holder to the service contractor.

b. Upon the close of sale and actual payment of the contract fees referred to in paragraph "a", subparagraph (1), the service company shall reimburse the listing period coverage contract holder for all legitimate service costs incurred and paid under the residential service contract during the term of the listing period coverage with offset only for any deductible or service call fees remaining due and payable with respect to service performed under the residential service contract during the term of the listing period coverage.

3. For purposes of this section:

a. "Close of sale" means the time an interest in, or title to, a home to which the interest or title attaches is sold or transferred.

b. "Listing period coverage" means coverage provided prior to the close of sale.

Sec. 10. Section 523C.17, Code 1993, is amended to read as follows:

523C.17 LENDING ~~INSTITUTION~~ INSTITUTIONS, SERVICE COMPANIES, AND INSURANCE COMPANIES.

A bank, savings and loan association, insurance company or other lending institution shall not require the purchase of a residential service contract as a condition of a loan. A service company or an insurer, either directly or indirectly, as a part of any real property transaction in which a residential service contract will be issued, purchased, or acquired, shall not require that a residential service contract be issued, purchased, or acquired in conjunction with or as a condition precedent to the issuance, purchase, or acquisition, by any person, of a policy of insurance. A lending institution shall not sell a residential service contract to a borrower unless the borrower signs an affidavit acknowledging that the purchase is not required. Violation of this section is punishable as provided in section 523C.13.

Sec. 11. NEW SECTION. 523C.20 CONSENT TO SERVICE OF PROCESS.

If a person engages in conduct subject to regulation under this chapter, the conduct shall constitute the appointment of the commissioner of insurance as the person's attorney to receive service of any lawful process in a noncriminal proceeding against the person, a successor, or personal representative, which grows out of that conduct, with the same force and validity as if served personally.

Sec. 12. Section 523D.5, subsection 3, Code 1993, is amended to read as follows:

3. CONSTRUCTION. New construction shall not begin until the filing required by this section has been made and at least fifty percent of the proposed number of independent living units in the initial stage or phase have been reserved pursuant to executed contracts and at least ten percent of the entrance fees required by those contracts are held in escrow pursuant to this chapter. However, the requirements of this subsection may be waived by the commissioner by rule or order upon a showing of good cause.

For purposes of this subsection, "good cause" includes but is not limited to, evidence of the following:

a. Secured financing adequate in an amount and term to complete the project described in the filing required by this section.

b. Cash reserves adequate in an amount to operate the facility for twenty-four months based upon reasonable projections of income and expenses.

c. Creation of an escrow account in which a resident's entrance fee or purchase price will be deposited, if the terms of the escrow agreement provide reasonable protection from loss until at least fifty percent of the proposed number of independent living units in the initial stage or phase have been reserved.

Sec. 13. Section 535C.2, subsections 1, 3, and 5, Code 1993, are amended by striking the subsections.

Sec. 14. Section 535C.2, subsections 2, 7, and 8, Code 1993, are amended to read as follows:

2. "Advance fee" means consideration of any type including a payment, fee, pay-per-call charge, or deposit, which is assessed or collected prior to the closing of a loan or the issuing of a credit card. ~~An advance fee includes, but is not limited to, money assessed or collected for processing, for an appraisal, for a credit check, for a consultation, or for expenses.~~

7. "Loan broker" or "broker" means a person who ~~in return for an advance fee,~~ promises to obtain a loan or credit card or assist in obtaining a loan for another from a third person, or who promises to consider making a loan or offering to issue a credit card to a person. A loan broker does not include any of the following:

a. An attorney licensed to practice in this state while engaged in the practice of law.

b. A certified public accountant licensed to practice in this state while engaged in practice as a certified public accountant.

c. An accounting practitioner, while engaged as an accounting practitioner, who procures loans as an incidental part of the accountant's practice.

d. ~~A person whose fee is entirely contingent on the successful procurement of a loan from a third person, if the borrower has not paid a fee prior to the closing of a loan other than a bona fide third-party fee~~ A governmental body or employee acting in an official capacity.

e. A financial institution, to the extent the institution's activities or arrangements are expressly approved or regulated by a regulatory body or officer acting under authority of the United States.

f. An insurance company ~~organized under the laws of this state and~~ subject to regulation by the commissioner of insurance.

g. A bank incorporated under chapter 524.

h. A credit union incorporated under chapter 533.

i. A savings and loan association or savings bank incorporated under chapter 534.

j. A mortgage broker or mortgage banker licensed or registered under chapter 535B.

k. A regulated loan company licensed under chapter 536.

l. An industrial loan company licensed under chapter 536A.

8. "Loan brokerage agreement" or "agreement" means an agreement between a loan broker and a borrower in which the loan broker promises to do any of the following:

a. Obtain a loan or credit card for a borrower.

b. Assist the borrower in obtaining a loan or credit card.

c. Consider making a loan or issuing a credit card to the borrower.

Sec. 15. NEW SECTION. 535C.2A PROHIBITION ON ADVANCE FEES.

A loan broker shall not directly or indirectly solicit, receive, or accept from a borrower an advance fee as consideration for providing services as a loan broker. A loan broker's fee may only be assessed or collected from a borrower after the successful procurement of a loan or issuance of a credit card.

Sec. 16. Section 535C.6, Code 1993, is amended to read as follows:

535C.6 PENALTIES.

A loan broker who violates a provision of this chapter is guilty of a serious misdemeanor ~~for failure to do any of the following:~~

~~1. Obtain and maintain a surety bond or establish and maintain a trust account as required in section 535C.4.~~

~~2. Make accurate and timely filings as required in section 535C.5.~~

Sec. 17. Section 535C.9, Code 1993, is amended to read as follows:

535C.9 RULES.

The ~~administrator~~ attorney general may adopt rules according to chapter 17A as necessary or appropriate to implement the purposes of this chapter.

Sec. 18. Section 535C.10, subsection 1, Code 1993, is amended to read as follows:

1. If a broker materially violates the loan brokerage agreement, the borrower may, upon written notice, void the agreement. In addition, the borrower may recover all moneys paid the broker ~~and may recover~~, a penalty of twice the amount of the fee sought by the broker, other damages ~~including~~, and reasonable attorney's fees. ~~The broker materially violates the agreement if the broker does~~ A material violation includes, but is not limited to, any of the following:

a. ~~Makes~~ Making false or misleading statements relative to the agreement.

b. ~~Does not~~ Failure to comply with the agreement or the obligations arising from the agreement.

c. ~~Does not~~ Failure to either grant the borrower a loan or issue a credit card or diligently attempt to obtain a loan or credit card for the borrower.

d. ~~Does not~~ Failure to comply with the requirements of this chapter.

e. Soliciting or obtaining, directly or indirectly, an advance fee.

Sec. 19. Section 535C.11, Code 1993, is amended to read as follows:

535C.11 APPLICABILITY.

This chapter does not apply to activities or arrangements expressly approved or regulated by the ~~administrator under other law, or the banking division or savings and loan division in the~~ department of commerce.

Sec. 20. NEW SECTION. 535C.11A EXEMPTION — BURDEN OF PROOF.

In a civil proceeding pursuant to this chapter, a person claiming to be excluded from the definition of "loan broker" or "broker" has the burden of proof in substantiating the claim.

Sec. 21. Section 535C.12, Code 1993, is amended to read as follows:

535C.12 RECORDS.

1. A loan broker shall maintain accurate records~~, as required by the administrator,~~ relating to transactions regulated under this chapter. The records shall include all of the following:

a. The accounts of the broker.

b. A copy of each contract in which the broker is a party, including loan brokerage agreements.

c. The amount of receipts received by the broker and the date the receipts were received.

2. The broker shall retain each loan brokerage agreement entered into by the broker and records pertaining to each agreement for at least two years after the agreement expires. ~~The agreements and records shall be maintained and made available for examination by the administrator.~~

Sec. 22. Section 535C.14, Code 1993, is amended to read as follows:

535C.14 MISREPRESENTATION OF GOVERNMENTAL APPROVAL.

It is unlawful for a loan broker to represent or imply that the broker has been sponsored, recommended, or approved by, or that the broker's abilities or qualifications have been passed upon by ~~the commissioner, the insurance division, the securities bureau, or the state of Iowa~~ a governmental entity of the state or its political subdivisions.

Sec. 23. Section 538A.2, subsection 1, Code 1993, is amended to read as follows:

1. A credit services organization is a person who, with respect to the extension of credit by others and in return for the payment of money or other valuable consideration, provides, or represents that the person can or will provide, any of the following services:

a. Improving a buyer's credit record, history, or rating.

b. ~~Obtaining an extension of credit for a buyer.~~

~~c.~~ Providing advice or assistance to a buyer with regard to paragraph "a" ~~or "b"~~.

Sec. 24. Section 546.8, Code 1993, is amended to read as follows:

546.8 INSURANCE DIVISION.

The insurance division shall regulate and supervise the conducting of the business of insurance in the state. The division shall enforce and implement Title XIII, subtitle 1, insurance and related regulation, chapters 505 through ~~523C~~ 523G, and chapters 502, ~~503,~~ and 535C, and shall perform other duties assigned to the division by law. The division is headed by the commissioner of insurance who shall be appointed pursuant to section 505.2.

Sec. 25. Section 557B.14, Code 1993, is amended to read as follows:

557B.14 REMEDIES.

1. A violation of this chapter or the commission of any act declared to be unlawful under this chapter constitutes a violation of section 714.16, subsection 2, paragraph "a", and the attorney general has all the powers enumerated in that section to enforce the provisions of this chapter.

2. In addition, the attorney general may seek civil penalties of not more than ten thousand dollars for each violation of or the commission of any act declared to be unlawful under this chapter. Each day of continued violation constitutes a separate offense.

3. Any person who fails to pay the filing fees required by this chapter and continues to sell membership camping contracts is liable civilly in an action brought by the attorney general for a penalty in an amount equal to treble the unpaid fees.

4. The provisions of this chapter are cumulative and nonexclusive and do not affect any other available remedy at law or equity, except as otherwise provided in sections 502.202, ~~503.3~~ 503A.2, and 537.3310.

Sec. 26. Chapter 503, Code 1993, is repealed.

Sec. 27. Sections 535C.3, 535C.3A, 535C.4, 535C.5, 535C.13, and 535C.16, Code 1993, are repealed.

Approved April 28, 1993

CHAPTER 61

COSMETOLOGY ARTS AND SCIENCES

S.F. 288

AN ACT relating to cosmetology including providing an exclusion from the definition of the practice of cosmetology arts and sciences for the purpose of licensure.

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

Section 1. Section 157.1, subsection 16, Code 1993, is amended to read as follows:

16. "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 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Persons who apply samples of make up, nail polish or other nail care products, cosmetics, or other cosmetology or esthetics preparations to persons to demonstrate the products in the regular course of business.

Sec. 3. Section 157.2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Cosmetologists shall not represent themselves to the public as electrologists, estheticians, or nail technologists unless the cosmetologist has completed the additional course study for the respective practice as prescribed by the board pursuant to section 157.10.

Approved April 28, 1993

CHAPTER 62

COMMUNITY HEALTH MANAGEMENT INFORMATION SYSTEM

S.F. 320

AN ACT relating to the development of a community health management information system.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly finds that the development of a community health management information system will result in a more efficient and cost-effective health care claims process; provide an efficient mechanism for the exchange of medical and claims information among providers and other interested entities; provide communities with information on the cost, appropriateness, and effectiveness of health care providers; and provide information to employers and researchers which will allow for benefit plan analysis, and medical effectiveness and related studies. The general assembly finds that the exchange of such medical and claims information, while vital in the effort to control health care administrative costs and in analyzing benefit plans and medical effectiveness, must be done such that all unnecessary identifying information remains confidential; that authorized users of the system must keep such information confidential; and that the privacy rights of individuals must not be violated as a result of the exchange of such information. The general assembly also finds that the implementation of such a system will result in a reduction of the number of paper claim forms that need to be completed, a reduction in the error rate on such forms, an improvement in the overall data communication among affected parties; and a reduction in health care administrative costs.

Sec. 2. IMPLEMENTATION STUDY CONTINUATION. The health data commission shall monitor the progress and continuation of the development and implementation of a community health management information system based upon the study established in 1992 Iowa Acts, chapter 1241, section 37. The health policy corporation of Iowa, through its subsidiary, the health information management center, and through its community health management information system (CHMIS) steering committee, shall report to the governor and leadership of the general assembly on or before November 1, 1993, on its Phase 1 and Phase 2 recommendations, as defined in the Iowa health data commission's January 1, 1993, report to the general assembly, prepared by the steering committee and based upon the study established in 1992 Iowa Acts, chapter 1241, section 37. The steering committee shall coordinate with the Iowa health reform council activities on health care reform, pursuant to the council's obligation to report to the governor and the general assembly by December 1, 1993.

The steering committee shall continue work related to its recommendations contained in the commission's January 1, 1993, report to the general assembly, including phases 1 and 2 of the five-step phased-in approach to the implementation of the CHMIS.

The steering committee shall also coordinate development and implementation of the CHMIS with federal and state agencies concerned with information exchange pursuant to development of "geographic information systems".

Sec. 3. LEGISLATIVE RECOMMENDATIONS. The steering committee shall file a written report with the governor and the general assembly by providing copies of the written report to the office of the governor, and to the secretary of the senate, the chief clerk of the house of representatives, and the legislative service bureau. The steering committee's report shall include recommendations on enabling legislation to be introduced during the 1994 regular session of the general assembly as well as other information or findings deemed appropriate to be included by the steering committee. The report shall be filed as provided in this section and section 2 of this Act on or before November 1, 1993.

Sec. 4. DEFINITIONS. For purposes of this Act, unless the context otherwise requires:

1. "Community health management information system" or "CHMIS" means an integrated electronic health management information system for transmittal and selected storage of data related to claims payable and other health care-related information.

2. "Steering committee" means the committee created by the health management information center pursuant to its agreement with the Iowa health data commission, as identified in section 2 of this Act.

Approved April 28, 1993

CHAPTER 63

TEXTBOOKS FOR PUPILS ATTENDING NONPUBLIC SCHOOLS

S.F. 364

AN ACT relating to nonpublic school pupil textbook services.

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

Section 1. Section 301.1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Textbooks adopted and purchased by a school district may, and shall to the extent funds are appropriated by the general assembly, be made available to pupils attending nonpublic

schools upon request of the pupil or the pupil's parent under comparable terms as made available to pupils attending public schools. As used in this paragraph, "textbooks" means books; book substitutes, including reusable workbooks; loose-leaf or bound manuals; and computer software materials used as book substitutes.

Approved April 28, 1993

CHAPTER 64

CRIMINAL TRIAL TESTIMONY BY MINORS

H.F. 79

AN ACT relating to criminal trial testimony by minors and certain victims and witnesses and providing an effective date.

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

Section 1. Section 910A.14, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. Upon its own motion or upon motion of any party, a court may protect a minor, as defined in section 599.1, from trauma caused by testifying in the physical presence of the defendant where it would impair the minor's ability to communicate, by ordering that the testimony of the minor be taken in a room other than the courtroom and be televised by closed circuit equipment for viewing in the courtroom. However, such an order shall be entered only upon a specific finding by the court that such measures are necessary to protect the minor from trauma. Only the judge, prosecuting attorney, defendant's attorney, 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 minor may be present in the room with the minor during the minor's testimony. The judge shall inform the minor that the defendant will not be present in the room in which the minor will be testifying but that the defendant will be viewing the minor's testimony through closed circuit television.

During the minor's testimony the defendant shall remain in the courtroom and shall be allowed to communicate with the defendant's counsel in the room where the minor is testifying by an appropriate electronic method.

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. 2. Section 910A.16, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. To the greatest extent possible, a multidisciplinary team involving the county attorney, law enforcement, community-based child advocacy organizations, and personnel of the department of human services shall be utilized in investigating cases involving a violation of chapter 709 or 726 with a child.

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

Approved April 28, 1993

CHAPTER 65

VOLUNTEER PHYSICIAN PROGRAM
H.F. 200

AN ACT establishing a volunteer physician program within the Iowa department of public health and providing for certain immunity from liability.

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

Section 1. NEW SECTION. 135.24 VOLUNTEER PHYSICIAN PROGRAM ESTABLISHED – IMMUNITY FROM CIVIL LIABILITY.

1. The director shall establish within the department a program to provide to eligible hospitals, clinics, or other health care facilities, or health care referral programs, free medical services given on a voluntary basis by physicians licensed under chapter 148, 150, or 150A. A participating physician shall register with the department and obtain from the department a list of eligible, participating hospitals, clinics, or other health care facilities, or health care referral programs.

2. The department, in consultation with the department of human services, shall adopt rules to implement the volunteer physician program which shall include the following:

a. Procedures for registration of physicians deemed qualified by the board of medical examiners.

b. Criteria for and identification of hospitals, clinics, or other health care facilities, or health care referral programs eligible to participate in the provision of free medical services through the volunteer physician program. A health care facility, a health care referral program, or a health care provider participating in the program shall not bill or charge a patient for any physician service provided under the volunteer physician program.

3. A physician providing free care under this section shall be considered an employee of the state under chapter 669 and shall be afforded protection as an employee of the state under section 669.21, provided that the physician has done all of the following:

a. Registered with the department pursuant to subsection 1.

b. Provided medical services through a hospital, clinic, or other health care facility, or health care referral program listed as eligible and participating by the department pursuant to subsection 1.

Approved April 28, 1993

CHAPTER 66

EMPLOYMENT OF COACHES BY SCHOOL DISTRICTS
H.F. 275

AN ACT to permit a person who has been issued a coaching authorization to be employed by a school district as head coach and providing an effective date.

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

Section 1. Section 279.19B, unnumbered paragraph 1, Code 1993, is amended by striking the unnumbered paragraph.

Sec. 2. Section 279.19B, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The board of directors of a school district may employ for head coach of ~~other~~ any interscholastic athletic activities or for assistant coach of any interscholastic athletic activity, an individual who possesses a coaching authorization issued by the board of educational examiners

or possesses a teaching license with a coaching endorsement issued pursuant to chapter 272. However, a board of directors of a school district shall consider applicants with qualifications described below, in the following order of priority:

1. A qualified individual who possesses a valid teaching license with a proper coaching endorsement.

2. A qualified individual who possesses a coaching authorization issued by the board of educational examiners.

Qualifications are to be determined by the board of directors or their designee or* a case-by-case basis.

PARAGRAPH DIVIDED. An individual who has been issued a coaching authorization or who possesses a teaching license with a coaching endorsement but is not issued a teaching contract under section 279.13 and who is employed by the board of directors of a school district serves at the pleasure of the board of directors and is not subject to sections 279.13 through 279.19, and 279.27. Subsection 1 of section 279.19A applies to coaching authorizations.

Sec. 3. EFFECTIVE DATE. This Act, being deemed of immediate importance, is effective upon enactment.

Approved April 28, 1993

CHAPTER 67

SCHOOL BOARD VACANCIES

H.F. 448

AN ACT extending the time limit for filling school board vacancies and providing an effective date.

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

Section 1. Section 279.7, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~In any case where~~ If a vacancy or vacancies occur among the elective officers or members of a school board and the remaining members of ~~such~~ the board have not filled ~~such~~ the vacancy within ~~ten~~ thirty days after the ~~occurrence thereof~~ vacancy occurs, or when the board is reduced below a quorum ~~for any cause~~, the secretary of the board, or if there ~~be~~ is no secretary, the area education agency administrator, shall call a special election in the district, subdistrict, or subdistricts, as the case may be, to fill ~~such~~ the vacancy or vacancies. The county commissioner of elections shall publish the notices required by law for ~~such~~ special elections, ~~which~~ and the election shall be held not sooner than thirty days nor later than forty days after the ~~tenth~~ thirtieth day following the occurrence of the vacancy. ~~In any case where~~ If the secretary fails for more than three days to call ~~such~~ an election, the administrator shall call it.

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

Approved April 28, 1993

*According to enrolled Act

CHAPTER 68

PUBLIC UTILITIES — ANNUAL ELECTRIC SUPPLY AND COST REVIEW
H.F. 454

AN ACT relating to the annual electric supply and cost review for certain public utilities.

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

Section 1. Section 476.6, subsection 16, Code 1993, is amended to read as follows:

16. ANNUAL ELECTRIC ENERGY SUPPLY AND COST REVIEW. The board shall conduct an annual proceeding for the purpose of evaluating the reasonableness and prudence of a rate-regulated public utility's procurement and contracting practices related to the acquisition of fuel for use in generating electricity. The evaluation may review the reasonableness and prudence of actions taken by a rate-regulated public utility to comply with the federal Clean Air Act Amendments of 1990, Pub. L. No.101-549. The proceeding shall be conducted as a contested case pursuant to chapter 17A. Under procedures established by the board, the utility shall file information as the board deems appropriate. If a utility is not taking all reasonable actions to minimize its fuel and allowance transaction costs, the board shall not allow the utility to recover from its customers fuel and allowance transaction costs in excess of those costs that would be or would have been incurred under reasonable and prudent policies and practices.

Approved April 28, 1993

CHAPTER 69

POSTSECONDARY ENROLLMENT OPTIONS
H.F. 491

AN ACT relating to postsecondary enrollment options for pupils at the school for the deaf and the Iowa braille and sight saving school.

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

Section 1. Section 261C.3, subsection 2, Code 1993, is amended to read as follows:

2. "Eligible pupil" means a pupil classified by the board of directors of a school district, by the state board of regents for pupils of the school for the deaf and the Iowa braille and sight saving school, or by 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. 2. Section 261C.4, Code 1993, 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 which the pupil 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 or the school for the deaf or the Iowa braille and sight saving 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. 3. Section 261C.5, Code 1993, is amended to read as follows:

261C.5 HIGH SCHOOL CREDITS.

A school district, the school for the deaf, the Iowa braille and sight saving school, or accredited nonpublic school shall grant high school academic or vocational-technical credit to an eligible pupil enrolled in a course under this chapter if the eligible pupil successfully completes the course as determined by the eligible institution. Eligible pupils, who have completed the eleventh grade but who have not yet completed the requirements for graduation, may take up to seven semester hours of credit during the summer months when school is not in session and receive credit for that attendance, if the pupil pays the cost of attendance of those summer credit hours. The board of directors of the school district, the state board of regents for the school for the deaf and the Iowa braille and sight saving school, or authorities in charge of an accredited nonpublic school shall determine the number of high school credits that shall be granted to an eligible pupil who successfully completes a course.

The high school credits granted to an eligible pupil under this section shall count toward the graduation requirements and subject area requirements of the school district of residence, the school for the deaf, the Iowa braille and sight saving school, or accredited nonpublic school of the eligible pupil. Evidence of successful completion of each course and high school credits and postsecondary academic or vocational-technical credits received shall be included in the pupil's high school transcript.

Sec. 4. Section 261C.6, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Not later than June 30 of each year, a school district shall pay a tuition reimbursement amount to an eligible postsecondary institution that has enrolled its resident eligible pupils under this chapter. For pupils enrolled at the school for the deaf and the Iowa braille and sight saving school, the state board of regents shall pay a tuition reimbursement amount by June 30 of each year. The amount of tuition reimbursement for each separate course shall equal the lesser of:

Approved April 28, 1993

CHAPTER 70

DISTRICT COURT – DUTIES OF CLERK – APPOINTMENT OF ASSOCIATE PROBATE JUDGE

H.F. 527

AN ACT relating to the duties of the clerk of the district court and the appointment of an associate probate judge.

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

Section 1. Section 62.7, Code 1993, is amended to read as follows:

62.7 WHEN AUDITOR IS PARTY.

When the auditor is a party, the ~~clerk of the district court~~ county treasurer shall receive such statement and approve such bond.

Sec. 2. Section 62.11, Code 1993, is amended to read as follows:

62.11 SUBPOENAS.

Subpoenas for witnesses may be issued at any time after the notice of trial is served, either by the ~~clerk of the district court~~ county treasurer or by the county auditor, and shall command the witnesses to appear at ....., on ....., to testify in relation to a contested election, wherein A ..... B ..... is contestant and C ..... D ..... is incumbent.

Sec. 3. Section 64.19, subsection 3, Code 1993, is amended to read as follows:

3. By a judge ~~or the clerk~~ of the district court ~~of~~ for the county in question, in case of members of the board of supervisors.

Sec. 4. Section 64.23, subsection 5, Code 1993, is amended to read as follows:

5. For members of the board of supervisors, with the ~~clerk of the district court~~ county auditor.

Sec. 5. Section 85.49, unnumbered paragraph 1, Code 1993, is amended to read as follows:

When a minor or mentally incompetent dependent is entitled to weekly benefits under this chapter, or chapter 85A or ~~chapter~~ 85B, payment shall be made to the ~~clerk of the district court for the county in which the injury occurred~~ parent, guardian, or conservator, who shall act as trustee, and the money coming into the ~~clerk's~~ trustee's hands shall be expended for the use and benefit of the person entitled to it under the direction and orders of a district judge. The ~~clerk of the district court, as~~ trustee, shall qualify and give bond in an amount as the district judge directs, which may be increased or diminished from time to time. ~~If the domicile or residence of the minor or mentally incompetent dependent is within the state but in a county other than that in which the injury to the employee occurred the industrial commissioner may order and direct that weekly benefits be paid to the clerk of the district court of the county of domicile or residence.~~

Sec. 6. Section 85.50, Code 1993, is amended to read as follows:

85.50 REPORT OF TRUSTEE.

The ~~clerk of the district court as such~~ trustee shall, on or before September 30 of each year, make ~~annual~~ reports, at such times as designated by the court, to the court of all money or property received or expended for ~~each~~ the person for whom the ~~clerk~~ parent, guardian, or conservator is acting as trustee.

~~A clerk of the district court shall, upon resigning or being removed from office or otherwise becoming disqualified as clerk, make an accounting and final report to be approved by the chief judge of the judicial district and all funds and other property shall be delivered to the successor in the office of clerk of the district court.~~

Sec. 7. Section 255.18, Code 1993, is amended to read as follows:

255.18 REPORTS.

One ~~duplicate~~ copy of each of the reports named in sections 255.15 and 255.17 shall be preserved in the records of ~~said~~ the hospital, ~~and the other transmitted to the clerk of the court where said order committing the patient to said hospital was entered, and by the clerk filed and preserved among the records in the cause~~.

Sec. 8. Section 602.8102, subsection 98, Code 1993, is amended to read as follows:

98. Carry out duties relating to trials and judgments as provided in sections 624.8 through ~~624.21~~ 624.20 and 624.37.

Sec. 9. Section 602.8102, subsections 16, 17, 18, and 22, Code 1993, are amended by striking the subsections.

Sec. 10. Section 633.16, Code 1993, is amended to read as follows:

633.16 CONTROL OF PROBATE RECORDS.

The court shall have jurisdiction and supervision of the probate records of the clerk, and may direct the destruction of records it deems to be old, obsolete or unnecessary, ~~except that the probate record provided for in section 633.29 and the will record provided for in section 633.301 or a copy thereof, shall be preserved at all times~~.

Sec. 11. Section 633.20, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The chief judge of a judicial district may appoint an associate probate judge and may remove the associate probate judge for cause following a hearing. The associate probate judge shall be an attorney admitted to practice law in this state and shall be qualified for the position by training and experience. The associate probate judge shall have jurisdiction to audit accounts of fiduciaries and to perform ministerial duties and judicial functions as the court prescribes.

Sec. 12. Section 633.29, Code 1993, is amended to read as follows:

633.29 PROBATE RECORD.

The clerk shall also keep a book to be known as the Probate Record that shall contain ~~full and complete~~ journal entries of all orders ~~made in relation to the business of each estate. When~~ and journal entries when real estate is sold or mortgaged by a fiduciary under an order of court ~~therefor, a complete record of the same shall be made in the probate record, including the petition, the notice, the returns of service, and all other papers filed, with the orders made relating thereto~~.

Sec. 13. Section 633.300, Code 1993, is amended to read as follows:

633.300 CERTIFICATE OF PROBATE.

When a will has been admitted to probate the clerk shall have a certificate of such fact, endorsed thereon or annexed thereto, signed by the clerk and attested by the seal of the court; and, when so certified, it, ~~or the record thereof,~~ or the transcript of ~~such~~ the record properly authenticated, may be read in evidence in all courts without further proof.

Sec. 14. Section 633.301, Code 1993, is amended to read as follows:

633.301 ~~RECORD~~ — COPY OF WILL FOR EXECUTOR.

When a will has been admitted to probate~~, it, together with the certificate herein required, shall be recorded in a book kept for that purpose,~~ and certified pursuant to section 633.300, the clerk shall cause an authenticated copy thereof to be placed in the hands of the executor to whom letters are issued. The clerk shall retain the will in a separate file provided for that purpose until the time for contest has expired, and promptly thereafter shall place it with the files of ~~said~~ the estate.

Sec. 15. Sections 602.6203, 624.21, and 633.30, Code 1993, are repealed.

Approved April 28, 1993

CHAPTER 71

MASSAGE THERAPISTS

H.F. 562

AN ACT relating to requirements for licensure of massage therapists.

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

Section 1. Section 152C.3, subsection 1, paragraph a, Code 1993, is amended to read as follows:

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.

Sec. 2. 1992 Iowa Acts, chapter 1137, section 8, subsection 1, is amended to read as follows:

1. a. A person practicing massage therapy on the effective date of this ~~bill~~ Act, who applies for licensure prior to December 31, 1993, 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.

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 and who applies for licensure prior to December 31, 1993, 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.

Approved April 28, 1993

CHAPTER 72

ELDER GROUP HOMES

S.F. 3

***AN ACT** relating to the establishment and regulation of elder group homes.

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

Section 1. FINDINGS AND PURPOSE.

1. The general assembly finds that elder group homes are an important part of the long-term care system in the state. Elder group homes provide a less restrictive alternative for persons requiring long-term care and promote independent living for tenants.

2. The purposes of this Act are all of the following:

a. To encourage the establishment and maintenance of homes that provide a humane, safe, and home-like environment for persons who require some assistance to live independently but who do not require the level of services provided by a nursing facility.

b. To establish standards for elder group homes that adequately protect tenants' rights and guarantee safety and sanitation, but that are not so restrictive as to discourage the development of elder group homes.

c. To establish standards for elder group homes that promote a social model of service delivery which focuses on tenant independence, individual need and preference, and customer-driven quality of service.

d. To encourage public participation in the development of elder group homes.

Sec. 2. NEW SECTION. 231B.1 DEFINITIONS.

1. "Ambulatory" means the condition of a person who immediately and without aid of another is physically and mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

2. "Department" means the department of elder affairs or the department's designee.

3. "Elder" means a person sixty years of age or older.

4. "Elder group home" means a single-family residence that is a residence of a person who is providing room, board, and personal care to three through five elders who are not related to the person providing the service within the third degree of consanguinity or affinity.

5. "Personal care" means assistance with the essential activities of daily living which the recipient can perform personally only with difficulty. "Personal care" may include bathing, personal hygiene, dressing, grooming, and the supervision of self-administered medications, but does not include the administration of medications.

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

Sec. 3. NEW SECTION. 231B.2 CERTIFICATION OF ELDER GROUP HOMES.

1. The department shall establish by rule in accordance with chapter 17A a special classification for elder group homes. An elder group home established pursuant to this subsection is exempt from the requirements of section 135.63.

2. The department shall adopt rules to establish requirements for certification of elder group homes. The requirements shall include but are not limited to all of the following:

a. Certification shall be for three years, unless revoked for good cause by the department.

b. An elder group home shall be inspected at the time of certification and subsequently upon receipt of a complaint.

c. An elder group home shall be owner-occupied, or owned by a nonprofit corporation and occupied by a resident manager. A resident manager shall reside in and provide services for no more than one elder group home.

d. An elder group home shall be located in an area zoned for single-family or multiple-family housing or in an unincorporated area and shall be constructed in compliance with applicable local housing codes and the rules adopted for the special classification by the state fire marshal. In the absence of local building codes, the facility shall comply with the state plumbing code established pursuant to section 135.11 and the state building code established pursuant to chapter 103A.

e. A minimum private space shall be required for each resident sufficient for sleeping and dressing.

f. A minimum level of training shall be required for persons providing personal care.

g. The commission of elder affairs shall adopt by rule procedures for appointing members of care review committees for elder group homes.

h. Notwithstanding any other requirements relating to performance of visitations or meetings of a care review committee, a care review committee appointed for an elder group home shall perform no more than four visitations, annually, to fulfill the duties of the care review committee in relation to the elder group home.

i. Elder group home tenants shall have reasonable access to community resources and shall have opportunities for integrated interaction with the community.

3. An elder group home established pursuant to this chapter shall be certified by the department.

4. A provider under the special classification shall comply with the rules adopted by the department for an elder group home.

5. Inspections and certification services shall be provided by the department. However, beginning July 1, 1994, the department may enter into contracts with the area agencies on aging to provide these services.

Sec. 4. NEW SECTION. 231B.3 REFERRAL TO UNCERTIFIED ELDER GROUP HOME PROHIBITED.

1. A person shall not place, refer, or recommend the placement of another person in an elder group home that is not certified pursuant to this chapter.

2. A person who has knowledge that an elder group home is operating without certification shall report the name and address of the home to the department. The department shall investigate a report made pursuant to this section.

Sec. 5. NEW SECTION. 231B.4 APPLICABILITY.

This chapter shall not be construed to require that a facility, currently licensed or licensed as a different type of facility and serving persons sixty years of age or older, also comply with the requirements of this chapter.

Sec. 6. Section 235B.3, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A person who performs inspections of elder group homes for the department of elder affairs and a care review committee member assigned to an elder group home pursuant to chapter 231B.

Sec. 7. NEW SECTION. 335.32 ELDER GROUP HOMES.

A county board of supervisors or county zoning commission shall consider an elder group home a family home, as defined in section 335.25, for purposes of zoning, in accordance with section 231B.2, and may establish limitations regarding the proximity of one proposed elder group home to another.

Sec. 8. NEW SECTION. 414.30 ELDER GROUP HOMES.

A city council or city zoning commission shall consider an elder family home a family home, as defined in section 414.22, for purposes of zoning, in accordance with section 231B.2, and may establish limitations regarding the proximity of one proposed elder group home to another.

Approved May 3, 1993

CHAPTER 73

PROPERTY TAXES, SPECIAL ASSESSMENTS, AND RATES AND CHARGES

S.F. 57

AN ACT relating to the collection and administration of property taxes, special assessments, and various rates, charges, and rentals and providing an effective date.

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

Section 1. Section 331.465, subsection 1, Code 1993, is amended to read as follows:

1. The board may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the county enterprise or combined county enterprise and, if revenue bonds or pledge orders are issued and outstanding under this part, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the county enterprise or combined county enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of the principal and interest, and a sufficient portion of net revenues shall be pledged for that purpose. Rates shall be established by ordinance. Rates or charges for the services of a county enterprise defined in section 331.461, subsection 2, paragraph "b", if not paid as provided by ordinance, constitute a lien upon the premises served and may be certified to the ~~auditor~~ county treasurer and collected in the same manner as taxes. The treasurer may charge five dollars for each lien certified as an administrative expense, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor and credited to the county general fund.

Sec. 2. Section 331.489, Code 1993, is amended to read as follows:

331.489 RATES AND CHARGES RELATING TO PUBLIC IMPROVEMENTS.

A county which has created a district for a public improvement and, to the extent provided in the agreement creating a joint special assessment district, each county or city which is a party to the agreement, may establish, impose, adjust, and provide for the collection of rates and charges to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of a public improvement, against property within the district and, where appropriate, establish, impose, adjust, and provide for the collection of charges for connection to a public improvement. The rates and charges must be established by ordinance of the governing body of the county or the city imposing the rates or charges. The rates and charges established as provided in this section, if not paid as provided by the ordinance of the governing

body, are a lien upon the premises served or benefited by the public improvement and may be certified to the county ~~auditor~~ treasurer and collected in the same manner as property taxes.

Sec. 3. Section 358.18, unnumbered paragraph 2, Code 1993, is amended to read as follows:

All taxes thus levied by the board shall be certified by the clerk on or before March 1 to the county auditor of each county wherein any of the property included within the territorial limits of ~~said~~ the sanitary district is located, and shall ~~by said auditor or auditors~~ be placed upon the tax list for the current fiscal year; ~~and the~~ by the auditor or auditors. The county treasurer, or treasurers, of more than one county, shall collect all taxes so levied in the same manner as other taxes, and when delinquent ~~they~~ the taxes shall draw the same interest ~~and penalties~~. All taxes ~~so~~ levied and collected shall be paid over by the officer collecting the ~~same~~ taxes to the treasurer of the sanitary district.

Sec. 4. Section 384.84, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise and, when revenue bonds or pledge orders are issued and outstanding pursuant to this division, shall establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of the city utility, combined utility system, city enterprise, or combined city enterprise, and to leave a balance of net revenues sufficient at all times to pay the principal of and interest on the revenue bonds and pledge orders as they become due and to maintain a reasonable reserve for the payment of principal and interest, and a sufficient portion of net revenues must be pledged for that purpose. Rates must be established by ordinance of the council or by resolution of the trustees, published in the same manner as an ordinance. All rates or charges for the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these, if not paid as provided by ordinance of the council, or resolution of the trustees, are a lien upon the premises served by any of these services upon certification to the county treasurer that the rates or charges are due. However, for residential rental properties where the charges for water services are separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the landlord gives written notice to the utility or enterprise that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety days of water service is paid to the utility or enterprise. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address that the tenant is to occupy, and date that the occupancy begins. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the utility or enterprise shall return the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent. When one or more of the utility or enterprise services become delinquent, the utility or enterprise shall give delinquency notice to the landlord who has filed a request containing the name and address of the person to be notified when the tenant is notified of the delinquency. A lien imposed pursuant to this subsection shall not be less than five dollars. The utility or enterprise shall give ten days' written notice by first class mail to the property owner of record who has filed a request containing the name and address of the person to be notified before placing a lien on the owner's property. The county treasurer may charge ~~two~~ five dollars for each lien certified as an administrative expense, which amount shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor and credited to the county general fund. The lien has equal precedence with ordinary taxes, may be certified to the county treasurer and collected in the same manner as taxes, and is not divested by a judicial sale.

Sec. 5. Section 445.1, subsection 5, Code 1993, is amended to read as follows:

5. "Rate or charge" means an item, including rentals, legally certified to the county treasurer for collection as provided in sections 331.465, 331.489, 358.20, 364.11, ~~and~~ 364.12, and 468.589 and section 384.84, subsection 1.

Sec. 6. Section 445.16, Code 1993, is amended to read as follows:

445.16 ABATEMENT OR COMPROMISE OF TAX.

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. 7. Section 446.2, Code 1993, is amended to read as follows:

446.2 NOTICE OF ~~PREVIOUS~~ SALE.

For each parcel sold, the county treasurer shall notify the ~~titleholder of record~~ party in whose name the parcel was taxed, according to the treasurer's records at the time of sale, that the parcel was sold at tax sale. The notice of sale ~~may be included on or with the tax statement or by separate mail~~ shall be sent by regular mail within fifteen days from the date of the annual tax sale or any adjourned tax sale.

Sec. 8. Section 446.7, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Parcels against which the county holds a tax sale certificate or a municipality holds a tax sale certificate acquired under section 446.19, parcels of municipal and political subdivisions of the state of Iowa, parcels held by a city or county agency or the Iowa finance authority for use in an Iowa homesteading project, or parcels of the state or its agencies, shall not be offered or sold at tax sale and a tax sale of those parcels is void from its inception. When taxes are owing against parcels owned or claimed by a municipal or political subdivision of the state of Iowa, parcels held by a city or county agency or the Iowa finance authority for use in an Iowa homesteading project, or parcels of the state or its agencies, the treasurer shall give notice to the appropriate governing body which shall then pay the total amount due. If the governing body fails to pay the total amount due, the board of supervisors shall abate the total amount due.

Sec. 9. Section 446.31, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A certificate of purchase for a parcel shall not be assigned to a person, other than a municipality, who is entitled to redeem that parcel.

Sec. 10. Section 446.32, Code 1993, is amended to read as follows:

446.32 PAYMENT OF SUBSEQUENT TAXES BY PURCHASER.

The county treasurer shall ~~also prepare, sign, and deliver~~ provide to the purchaser of a parcel sold at tax sale a receipt for the total amount paid by the purchaser after the date of purchase for a subsequent year. Taxes for a subsequent year may be paid by the purchaser ~~any time after June 30 or upon delivery of the new tax list referred to in chapter 443~~ beginning fourteen days following the date from which an installment becomes delinquent as provided in section 445.37.

Sec. 11. Section 447.1, Code 1993, is amended to read as follows:

447.1 REDEMPTION — TERMS.

A parcel sold under this chapter and chapter 446 may be redeemed at any time before the right of redemption expires, by payment to the county treasurer, to be held by the treasurer subject to the order of the purchaser, of the amount for which the parcel was sold, including the fee for the certificate of purchase, and interest of two percent per month, counting each fraction of a month as an entire month, from the month of sale, and the total amount paid by the purchaser or the purchaser's assignee for any subsequent year, with interest at the same rate added on the amount of the payment for each subsequent year from the month of payment, counting each fraction of a month as an entire month. The amount of interest must be at least one dollar and shall be rounded to the nearest whole dollar. Interest shall accrue on subsequent amounts from the month of payment by the certificate holder.

When the county or city is the certificate holder of the parcel redeemed from a sale held under section 446.19, the redemption amount shall be apportioned among the several funds for which the taxes were levied. All interest, costs, and fees shall be apportioned to the general fund of the county regardless of who is the certificate holder. If a city is the certificate holder of the parcel redeemed from a sale held under section 446.7 or 446.28, the city shall be entitled to the total amount redeemed.

Sec. 12. Section 447.12, Code 1993, is amended to read as follows:

447.12 WHEN SERVICE DEEMED COMPLETE — PRESUMPTION.

Service is complete only after an affidavit has been filed with the county treasurer, showing the making of the service, the manner of service, the time when and place where made, under whose direction the service was made, and costs incurred as provided in section 447.13. Costs not filed with the treasurer before a redemption is complete shall not be collected by the treasurer. Costs shall not be filed with the treasurer prior to the filing of the affidavit. The affidavit shall be made by the holder of the certificate or by the holder's agent or attorney, and in either of the latter cases stating that the affiant is the agent or attorney of the holder of the certificate. The affidavit shall be filed by the treasurer and entered in the county system and is presumptive evidence of the completed service of the notice. The right of redemption shall not expire until ninety days after service is complete. A redemption shall not be considered valid unless received by the treasurer prior to the close of business on the ninetieth day from the date of completed service except in the case of a public bidder certificate held by the county in which case the county may accept a redemption at any time prior to the issuance of the tax deed. When 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 affidavit shall be made by the treasurer of the county or the county attorney, a city officer designated by resolution of the council, or on behalf of the agency or authority, by one of its officers as authorized in rules of the agency or authority.

Sec. 13. Section 468.589, Code 1993, is amended to read as follows:

468.589 RATES AND CHARGES FOR SERVICES AND CONNECTION.

If a county and city have entered into an agreement pursuant to chapter 28E to create an urban drainage district, the county or city or both may, to the extent and in the manner provided in the agreement, establish, impose, adjust, and provide for the collection of rates to produce gross revenues at least sufficient to pay the expenses of operation and maintenance of a drainage improvement against property within the district and establish, impose, adjust, and provide for the collection of charges for connection to a drainage improvement. Rates and charges must be established by ordinance of the governing body of the county or city imposing the rates or charges. Rates or charges for the services of and connection to the drainage improvement if not paid as provided by the ordinance of the governing body, are a lien upon the premises served or benefited by that improvement and may be certified to the county ~~auditor~~ treasurer and collected in the same manner as other taxes.

Sec. 14. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 3, 1993

CHAPTER 74

SCHOOL LIBRARY TAX IN REORGANIZED DISTRICTS
S.F. 191

AN ACT relating to the levy of taxes for school libraries in certain school districts.

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

Section 1. Section 298.7, Code 1993, is amended to read as follows:

298.7 CONTRACT FOR USE OF LIBRARY.

1. The board of directors of a school corporation in which there is no free public library may contract with a free public library for the free use of the library by the residents of the school district, and pay the library the amount agreed upon for the use of the library as provided by law. During the existence of the contract, the board shall certify annually a tax sufficient to pay the library the consideration agreed upon, not exceeding twenty cents per thousand dollars of assessed value of the taxable property of the district. During the existence of the contract, the school corporation is relieved from the requirement that the school treasurer withhold funds for library purposes. This section does not apply in townships where a contract for other library facilities is in existence.

2. However, if a school district which is qualified to contract for library services under subsection 1, levies a tax not to exceed twenty cents per thousand dollars of assessed valuation of the taxable property for school library purposes in the fiscal year before a reorganization involving the district, the tax levy shall remain valid for succeeding fiscal years, and shall be levied and collected against the taxable property of the former district which is part of the reorganized district for school library purposes. The contract and the tax levy may be discontinued by a petition signed by eligible electors residing in the former district. The petition requesting the discontinuance must be signed by no fewer than one hundred eligible electors or thirty percent of the number voting at the last preceding school election in the former district, whichever is greater. The petition must be filed with the secretary of the board of directors of the school district at least seventy-five days before the next regular school election. The proposal to discontinue the levy shall be deemed adopted if the vote in favor of the discontinuance is equal to at least a majority of the total vote cast on the proposal by the electors of the former school district.

Approved May 3, 1993

CHAPTER 75

DEAF AND HARD-OF-HEARING PERSONS
S.F. 220

AN ACT relating to deaf and hard-of-hearing persons by changing definitions and the ability to charge certain interpreter fees as costs in a legal action.

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

Section 1. Section 7E.5, subsection 1, paragraph t, Code 1993, is amended to read as follows:

t. The department of human rights, created in section 216A.1, which has primary responsibility for services relating to Latino persons, women, persons with disabilities, community action agencies, criminal and juvenile justice planning, the status of African-Americans, and deaf and hard-of-hearing persons.

Sec. 2. Section 34.2, subsection 4, unnumbered paragraph 1, Code 1993, 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 emergency management, poison control, suicide prevention, and other emergency services. The public safety answering point shall be capable of receiving calls from ~~hearing impaired~~ deaf and hard-of-hearing 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. 3. Section 216A.112, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Terms of office are three years and shall begin and end pursuant to section 69.19. The commission shall adopt rules concerning programs and services for deaf and hard-of-hearing persons.

Sec. 4. Section 216A.114, Code 1993, is amended to read as follows:

216A.114 DUTIES OF COMMISSION.

The commission shall:

1. Interpret to communities and to interested persons the needs of the deaf and hard-of-hearing and how their needs may be met through the use of service providers.

2. Obtain without additional cost to the state available office space in public and private agencies which service providers may utilize in carrying out service projects for deaf and hard-of-hearing persons. However, if space is not available in a specific service area without additional cost to the state, the commission may obtain other office space which is ~~colocated~~ located with other public or private agencies. The space shall be obtained at the lowest cost available and the terms of the lease must be approved by the director of the department of general services.

3. Establish service projects for deaf and hard-of-hearing persons throughout the state. Projects shall not be undertaken by service providers for compensation which would duplicate existing services when those services are available to deaf ~~people~~ and hard-of-hearing persons through paid interpreters or other persons able to communicate with deaf ~~people~~ and hard-of-hearing persons.

As used in this section, "service projects" includes interpretation services for persons who are deaf and hard-of-hearing, referral and counseling services for deaf ~~people~~ and hard-of-hearing persons in the areas of adult education, legal aid, employment, medical, finance, housing, recreation, and other personal assistance and social programs.

"Service providers" are persons who, for compensation or on a volunteer basis, carry out service projects.

4. Identify agencies, both public and private, which provide community services, evaluate the extent to which they make services available to deaf ~~people~~ and hard-of-hearing persons, and cooperate with the agencies in coordinating and extending these services.

5. Collect information concerning deafness or hearing loss and provide for the dissemination of the information.

6. Provide for the mutual exchange of ideas and information on services for deaf ~~people~~ and hard-of-hearing persons between federal, state, and local governmental agencies and private organizations and individuals.

7. Pursuant to section 216A.2, be responsible for budgeting and personnel decisions for the commission and division.

Sec. 5. Section 216C.10, Code 1993, is amended to read as follows:

216C.10 USE OF HEARING DOG.

A deaf or hard-of-hearing person has the right to be accompanied by a hearing dog, under control and especially trained at a recognized training facility to assist the deaf or hard-of-hearing by responding to sound, in any place listed in sections 216C.3 and 216C.4 without being required to make additional payment for the hearing dog. A landlord shall waive lease restrictions on the keeping of dogs for a deaf or hard-of-hearing person with a hearing dog. The

deaf or hard-of-hearing person is liable for damage done to any premise or facility by a hearing dog.

A person who denies or interferes with the right of a deaf or hard-of-hearing person under this section is, upon conviction, guilty of a simple misdemeanor.

Sec. 6. Section 477C.1, Code 1993, is amended to read as follows:

477C.1 DUAL PARTY RELAY SERVICE — PURPOSE.

The general assembly finds that the provision of a statewide dual party relay service will further the public interest and protect the health, safety, and welfare of the people of Iowa through an increase in the usefulness and availability of the telephone system. Many deaf, ~~hearing impaired~~ hard-of-hearing, and speech-impaired persons are not able to utilize the telephone system without this type of service. Therefore, it is the purpose of this chapter to enable the orderly development, operation, promotion, and funding of a statewide dual party relay service.

Sec. 7. Section 622B.1, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

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

a. "Administrative agency" means any department, board, commission, or agency of the state or any political subdivision of the state.

b. "Deaf person" means an individual who uses sign language as the person's primary mode of communication and who may use interpreters to facilitate communication.

c. "Hard-of-hearing person" means an individual who is unable to hear and distinguish sounds within normal conversational range and who needs to use speechreading, assistive listening devices, or oral interpreters to facilitate communication.

d. "Interpreter" means an oral interpreter or sign language interpreter.

e. "Oral interpreter" means an interpreter who is fluent in transliterating, paraphrasing, and voicing.

f. "Sign language interpreter" means an interpreter who is able to interpret from sign language to English and English to sign language.

Sec. 8. Section 622B.2, Code 1993, is amended to read as follows:

622B.2 INTERPRETER APPOINTED.

If a ~~hearing impaired~~ deaf or hard-of-hearing person is a party to, ~~or~~ a witness at, or a participant in a proceeding before a grand jury, court, or administrative agency of this state, the court or administrative agency shall appoint an interpreter without expense to the ~~hearing impaired~~ deaf or hard-of-hearing person to interpret or translate the proceedings to the ~~hearing impaired~~ deaf or hard-of-hearing person and to interpret or translate the person's testimony unless the ~~hearing impaired~~ deaf or hard-of-hearing person waives the right to an interpreter.

Sec. 9. Section 622B.3, Code 1993, is amended to read as follows:

622B.3 NOTICE OF NEED.

When a ~~hearing impaired~~ deaf or hard-of-hearing person is entitled to an interpreter, the ~~hearing impaired~~ deaf or hard-of-hearing person shall notify the presiding official within three days after receiving notice of the proceeding, stating the disability and requesting the services of an interpreter. If the ~~hearing impaired~~ deaf or hard-of-hearing person receives notification of an appearance less than five days prior to the proceeding, that person shall notify the presiding official requesting an interpreter as soon as practicable or may apply for a continuance until an interpreter is appointed.

Sec. 10. Section 622B.4, Code 1993, is amended to read as follows:

622B.4 LIST.

The division of deaf services of the department of human rights shall prepare and continually update a listing of qualified and available interpreters. The courts and administrative agencies shall maintain a directory of qualified interpreters for ~~hearing impaired~~ deaf and hard-of-hearing persons as furnished by the department of human rights. The division of deaf

services shall maintain information on the qualifications of interpreters, which information is confidential except to a court, administrative agency, or interested parties to an action using the services of an interpreter.

Sec. 11. Section 622B.5, Code 1993, is amended to read as follows:

622B.5 OATH.

Before participating in a proceeding, an interpreter shall take an oath that the interpreter will make a true interpretation in an understandable manner to the person for whom the interpreter is appointed and that the interpreter will interpret or translate the statements of the ~~hearing impaired~~ deaf or hard-of-hearing person to the best of the interpreter's skills and judgment.

Sec. 12. Section 622B.6, Code 1993, is amended to read as follows:

622B.6 PRIVILEGED.

Communication between a ~~hearing impaired~~ deaf or hard-of-hearing person and a third party which is privileged under chapter 622 in which the interpreter participates as an interpreter shall be privileged to the interpreter.

Sec. 13. Section 622B.7, Code 1993, is amended to read as follows:

622B.7 FEE.

An interpreter appointed under this chapter is entitled to a reasonable fee and expenses as determined by the rules applying to that proceeding. This schedule shall be furnished to all courts and administrative agencies and maintained by them. If the interpreter is appointed by the court, the fee and expenses shall be paid by the county and if the interpreter is appointed by an administrative agency, the fee and expenses shall be paid out of funds available to the administrative agency. ~~If a hearing impaired person is not a party to the action, the fees and expenses of an interpreter shall be charged to costs.~~

Sec. 14. Section 804.31, Code 1993, is amended to read as follows:

804.31 ARREST OF ~~HEARING IMPAIRED~~ DEAF OR HARD-OF-HEARING PERSON — USE OF INTERPRETERS — FEE.

When a person is detained for questioning or arrested for an alleged violation of a law or ordinance and there is reason to believe that the person is ~~hearing impaired~~ deaf or hard-of-hearing, the peace officer making the arrest or taking the person into custody or any other officer detaining the person shall determine if the person is a ~~hearing impaired~~ deaf or hard-of-hearing person as defined in section 622B.1. If the officer so determines, the officer, at the earliest possible time and prior to commencing any custodial interrogation of the person, shall procure a qualified interpreter in accordance with section 622B.2 and the rules adopted by the supreme court under section 622B.1 unless the ~~hearing impaired~~ deaf or hard-of-hearing person knowingly, voluntarily, and intelligently waives the right to an interpreter in writing by executing a form prescribed by the department of human rights and the Iowa county attorneys association. The interpreter shall interpret the officer's warnings of constitutional rights and protections and all other warnings, statements, and questions spoken or written by any officer, attorney, or other person present and all statements and questions communicated in sign language by the ~~hearing impaired~~ deaf or hard-of-hearing person.

This section does not prohibit the request for and administration of a preliminary breath screening test or the request for and administration of a chemical test of a body substance or substances under chapter 321J prior to the arrival of a qualified interpreter for a ~~hearing impaired~~ deaf or hard-of-hearing person who is believed to have committed a violation of section 321J.2. However, upon the arrival of the interpreter the officer who requested the chemical test shall explain through the interpreter the reason for the testing, the consequences of the person's consent or refusal, and the ramifications of the results of the test, if one was administered.

When an interpreter is not readily available and the ~~hearing impaired~~ deaf or hard-of-hearing person's identity is known, the person may be released by the law enforcement agency into the temporary custody of a reliable family member or other reliable person to await the arrival of the interpreter, if the person is eligible for release on bail and is not believed to be an immediate threat to the person's own safety or the safety of others.

An answer, statement, or admission, oral or written, made by a ~~hearing impaired~~ deaf or hard-of-hearing person in reply to a question of a law enforcement officer or any other person having a prosecutorial function in a criminal proceeding is not admissible in court and shall not be used against the ~~hearing impaired~~ deaf or hard-of-hearing person if that answer, statement, or admission was not made or elicited through a qualified interpreter, unless the ~~hearing impaired~~ deaf or hard-of-hearing person had waived the right to an interpreter pursuant to this section. In the event of a waiver and criminal proceeding, the court shall determine whether the waiver and any subsequent answer, statement, or admission made by the ~~hearing impaired~~ deaf or hard-of-hearing person were knowingly, voluntarily, and intelligently made.

When communication occurs with a person through an interpreter pursuant to this section, all questions or statements and responses shall be relayed through the interpreter. The role of the interpreter is to facilitate communication between the hearing and ~~hearing impaired~~ deaf or hard-of-hearing parties. An interpreter shall not be compelled to answer any question or respond to any statement that serves to violate that role at the time of questioning or arrest or at any subsequent administrative or judicial proceeding.

An interpreter procured under this section shall be paid a reasonable fee and expenses by the governmental subdivision funding the law enforcement agency that procured the interpreter.

Approved May 3, 1993

CHAPTER 76

CHILD ABUSE, DEPENDENT ADULT ABUSE, CHILD CARE, AND JUVENILE SHELTER CARE

S.F. 221

AN ACT relating to department of human services' statutory provisions involving child abuse information, dependent adult abuse, child day care, and juvenile shelter care.

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

DIVISION I
CHILD ABUSE PROVISIONS

Section 1. Section 232.68, subsection 2, Code 1993, is amended by adding the following new paragraph after paragraph a and relettering the succeeding paragraphs:

NEW PARAGRAPH. b. Any mental injury to a child's intellectual or psychological capacity as evidenced by an observable and substantial impairment in the child's ability to function within the child's normal range of performance and behavior as the result of the acts or omissions of a person responsible for the care of the child, if the impairment is diagnosed and confirmed by a licensed physician or qualified mental health professional as defined in section 622.10.

Sec. 2. Section 232.116, subsection 1, paragraph l, Code 1993, is amended to read as follows:

l. The court finds that both of the following have occurred:

(1) The child has been adjudicated a child in need of assistance pursuant to section 232.96 after finding that the child has been physically or sexually abused or neglected as a result of the acts or omissions of a parent.

(2) The parent found to have physically or sexually abused or neglected the child has been convicted of a felony and imprisoned for ~~such abuse against~~ physically or sexually abusing or neglecting the child, the child's sibling, or any other child in the household ~~and the court finds it is unlikely that the parent will be released within five years~~.

Sec. 3. Section 235A.15, subsection 3, Code 1993, is amended to read as follows:

3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "e", subparagraph (2), and to the department of justice for purposes of the crime victim compensation program in accordance with section 912.10.

Sec. 4. Section 235A.15, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the investigation of the report. If the child's state of residency refuses to conduct an investigation, the department shall commence an appropriate investigation.

NEW UNNUMBERED PARAGRAPH. If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an investigation of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation of the report, the department shall commence an appropriate investigation. The department shall seek to develop protocols with states contiguous to this state for coordination in the investigation of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 5. Section 235A.18, subsection 1, Code 1993, is amended to read as follows:

1. Child abuse information relating to a particular case of suspected child abuse shall be sealed ten years after the receipt of the initial report of such abuse by the registry unless good cause be shown why the information should remain open to authorized access. If a subsequent report of a suspected case of child abuse involving the child named in the initial report as the victim of abuse or a person named in such report as having abused a child is received by the registry within this ten-year period, the information shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the information should remain open to authorized access. The information shall be expunged eight years after the date the information was sealed.

Sec. 6. Section 235A.18, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be ~~expunged~~ sealed one year after the receipt of the initial report of abuse and ~~child~~ expunged five years after the date it was sealed. Child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged when it is determined to be unfounded~~.~~. A report shall be determined to be unfounded as a result of any of the following:

DIVISION II
DEPENDENT ADULT ABUSE

Sec. 7. Section 235B.2, subsection 5, paragraph a, subparagraph (1), Code 1993, 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, or assault of a dependent adult.

DIVISION III
CHILD DAY CARE

Sec. 8. Section 237A.1, subsection 4, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. An instructional program administered by a nonpublic school system which is not accredited by the department of education or the state board of regents.

Sec. 9. Section 237A.1, subsection 9, paragraph b, Code 1993, is amended to read as follows:

b. "Group day care home" means a facility providing child day care for more than six but less than twelve children, ~~with no more than six children at one time being less than six years of age~~ or for less than sixteen children at any one time as authorized in accordance with section 237A.3, subsection 2A, provided each child in excess of six children is attending school full-time on a regular basis.

Sec. 10. Section 237A.3, subsection 1, Code 1993, is amended to read as follows:

1. a. A person who operates or establishes a family day care home may apply to the department for registration under this chapter. The department shall issue a certificate of registration upon receipt of a statement from the family day care home that the home complies with rules adopted by the department. The registration certificate shall be posted in a conspicuous place in the family day care home, shall state the name of the registrant, the number of individuals who may be received for care at any one time, and the address of the home, and shall include a check list of registration compliances.

b. No greater number of children than is authorized by the registration certificate shall be kept in the family day care home at any one time. However, a registered or unregistered family day care home may provide care for more than six but less than twelve children at any one time for a period of less than two hours, provided that each child in excess of six children is attending school full-time on a regular basis.

c. A family day care home may provide care in accordance with this subsection for more than six but less than twelve children for two hours or more during a day with inclement weather following the cancellation of school classes. The home must have prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home pursuant to this paragraph. The home must have a responsible individual, age fourteen or older, on duty to assist the home provider when more than six children are present in accordance with the provisions of this paragraph. In addition, one or more of the following conditions shall apply to each child present in the home in excess of six children:

(1) The home provides care to the child on a regular basis for periods of less than two hours.

(2) If the child was not present in the family day care home, the child would be unattended.

(3) The home regularly provides care to a sibling of the child.

d. In determining the number of children cared for at any one time in a registered or unregistered family day care home, if the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is not attending school full-time on a regular basis or is not receiving child day care full-time on a regular basis from another person, the child shall be considered to be receiving child day care from the person and shall be counted as one of the children cared for in the home.

e. The registration process may be repeated on an annual basis.

f. A child day care provider or program which is not a family day care home by reason of the definition of child day care in section 237A.1, subsection 4, but which provides care, supervision or guidance to a child may be issued a certificate of registration under this chapter.

Sec. 11. Section 237A.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A registered group day care home may provide care in accordance with this subsection for more than eleven but less than sixteen children for a period of less than two hours or for a period of two hours or more during a day with inclement weather following the cancellation of school classes. The home must have the prior written approval

from the parent or guardian of each child present in the home concerning the presence of excess children in the home. In addition, one or more of the following conditions shall apply to each child present in the home in excess of eleven children during a period of inclement weather:

a. The group day care home provides care to the child on a regular basis for periods of less than two hours.

b. If the child was not present in the group day care home, the child would be unattended.

c. The group day care home provides care to a sibling of the child.

Sec. 12. Section 237A.27, Code 1993, is amended to read as follows:

237A.27 CRISIS CHILD CARE.

The department shall establish a special child care registration or licensure classification for crisis child care which is provided on a temporary emergency basis to a child when there is reason to believe that the child may be subject to abuse or neglect. The special classification is not subject to the definitional restrictions of child day care in this chapter relating to the provision of child day care for a period of less than twenty-four hours per day on a regular basis. However, the provision of crisis child care shall be limited to a period of not more than seventy-two hours for a child during any single stay. A person providing crisis child care must be registered or licensed under this chapter and must be participating or have previously participated in the federal crisis nursery pilot project. The department shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 13. NEW SECTION. 237A.28 STATE AND FEDERAL FUNDING OF CHILD DAY CARE.

State funds and federal funds provided to the state in accordance with federal requirements shall not be used to pay for the care, supervision, or guidance of a child for periods of less than twenty-four hours per day on a regular basis in a place other than the child's home unless the care, supervision, or guidance is defined as child day care as used in this chapter.

Sec. 14. 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 12 of this Act by July 1, 1993. 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.

DIVISION IV
JUVENILE SHELTER CARE

Sec. 15. Section 232.141, subsection 8, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

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, organized under a chapter 28E agreement, or operated by a private juvenile shelter care home. If the actual and allowable costs of a child's shelter care placement exceed 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. However, the maximum amount of the unpaid costs which may be recovered under this subsection is limited to the difference between the amount the department is authorized to pay and the statewide average of the actual and allowable rates in effect in May of the preceding fiscal year for reimbursement of juvenile shelter care homes. In no case shall the home be reimbursed for more than the home's actual and allowable costs. 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 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.

Approved May 3, 1993

CHAPTER 77

FRIENDS OF CAPITOL HILL CORPORATION

S.F. 312

AN ACT relating to the formation of the friends of capitol hill nonprofit corporation.

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

Section 1. NEW SECTION. 18A.11 FRIENDS OF CAPITOL HILL — AUTHORIZED CORPORATION.

1. The friends of capitol hill corporation shall be incorporated under chapter 504A. The corporation shall be organized and operated for the preservation, restoration, and public use of the Iowa state capitol building, and for related charitable, cultural, and educational purposes.

The corporation shall not be regarded as a state agency and a state official or employee, acting in the official's or employee's official capacity, shall not be an incorporator of the corporation.

2. The membership of the board of directors of the corporation shall be determined in accordance with the articles of incorporation of the corporation and shall include at least one member from each of the legislative, executive, and judicial branches of government, in addition to public members. Members of the board shall not be entitled in the performance of their duties to either a per diem or expenses.

3. In addition to the powers conferred on the board under chapter 504A, the board may accept contributions, including but not limited to appropriations, gifts, grants, loans, services, or other aid or assistance from public or private entities.

Approved May 3, 1993

CHAPTER 78

CHILD SUPPORT — INCOME WITHHOLDING, REVIEW AND ADJUSTMENT, AND OTHER MATTERS

S.F. 349

AN ACT relating to child support and providing effective and retroactive applicability dates.

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

Section 1. Section 232.182, subsection 5A, Code 1993, is amended to read as follows:

5A. If the court orders placement of the child into foster care, the court or the department shall establish a support obligation for the costs of the placement pursuant to section 234.39.

Sec. 2. Section 252A.18, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. The respondent shall have twenty days after receiving notice of the registration in which to petition the court to vacate the registration or for other relief. If the respondent does not so petition, the respondent is in default and the registered support order is confirmed.

b. If a registration action is initiated by the child support recovery unit, issues subject to challenge are limited to issues of fact relating to the support obligation and not other issues including, but not limited to, custody and visitation, or the terms of the support order.

Sec. 3. Section 252A.19, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 4. Section 252A.19, subsection 3, Code 1993, is amended to read as follows:

~~3~~ 2. At ~~the~~ a hearing to enforce the registered support order the respondent may present only matters that would be available to the respondent as defenses in an action to enforce a foreign money judgment. ~~However, the court in its discretion may consider the income and resources of the respondent, the respondent's ability to pay, and any material changes of circumstances since the granting of registered support order, and may modify the amount of the support in the same manner as other support orders are modified.~~ If the respondent states to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the respondent has furnished security for payment of the support as ordered by the court. If the respondent shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the respondent furnishes the same security for payment of the support ordered that is required for a support order of this state.

Sec. 5. NEW SECTION. 252A.20 MODIFICATION OR ADJUSTMENT OF A REGISTERED FOREIGN SUPPORT ORDER AND OF AN IOWA ORDER REGISTERED IN A FOREIGN JURISDICTION.

1. An order which has been registered in a court of this state pursuant to section 252A.18 may be modified or adjusted following registration, subject to all of the following:

a. The modification or adjustment of the order does not affect the underlying judgment in the foreign jurisdiction, unless provided pursuant to the statute of the foreign jurisdiction.

b. The modification or adjustment of the underlying judgment by a foreign jurisdiction does not affect the registered order in this state unless confirmed by a court of this state.

2. A support order issued in a court of this state may be registered in a foreign jurisdiction and, following registration, may be modified or adjusted subject to the following:

a. The modification or adjustment of the registered order by a foreign jurisdiction does not affect the underlying judgment in this state unless confirmed by a court of this state.

b. The modification or adjustment of the underlying judgment by a court of this state following registration in a foreign jurisdiction does not affect the registered order unless provided by the statute of the foreign jurisdiction.

Sec. 6. Section 252B.4, subsection 1, Code 1993, is amended to read as follows:

1. The director shall require an application fee of ~~twenty-five~~ five dollars.

Sec. 7. Section 252B.4, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. When the unit intercepts a federal tax refund of an obligor for payment of delinquent support and the funds are due to a recipient of services who is not otherwise eligible for public assistance, the unit shall deduct a twenty-five dollar fee from the funds before forwarding the balance to the recipient.

a. The unit shall inform the recipient of the fee under this subsection prior to assessment.

b. The fee shall be assessed only to individuals who receive support from the federal tax refund offset program. If the tax refund due the recipient is less than fifty dollars, the fee shall not be assessed.

NEW SUBSECTION. 2B. The department may adopt rules to establish fees which provide for recovery of administrative costs of the program in addition to other fees identified.

Sec. 8. Section 252B.5, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The review and adjustment or modification of a support order pursuant to chapter 252H upon adoption of rules pursuant to chapter 17A governing policies and procedures for review and adjustment or modification.

Sec. 9. Section 252C.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Actions initiated by the administrator under this chapter are not subject to chapter 17A and resulting court hearings following certification shall be an original hearing before the district court.

Sec. 10. Section 252D.1, subsection 2, Code 1993, is amended to read as follows:

2. If support payments ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 598, 600B, 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, compensation, or benefits 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 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, compensation, benefits, 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. 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.~~ Notification of income withholding shall be provided to the payor of earnings, trust income, or other income pursuant to section 252D.17A.

Sec. 11. Section 252D.8, Code 1993, is amended to read as follows:

252D.8 PERSONS SUBJECT TO IMMEDIATE INCOME WITHHOLDING.

1. In a support order issued or modified on or after November 1, 1990, for which services are being provided by the child support recovery unit, and in any support orders issued or modified after January 1, 1994, for which services are not provided by the child support recovery unit, the income of a support obligor is subject to withholding, on the effective date of the order, regardless of whether support payments by the obligor are in arrears. ~~The~~ If services are being provided pursuant to chapter 252B, the child support recovery unit may enter an ex parte order for an immediate withholding of income ~~or may directly implement immediate withholding of income~~ if authorizing language is contained in the court order. The district court may enter an ex parte order for immediate income withholding for cases in which the child support recovery unit is not providing services. The income of the obligor is subject to ~~such automatic~~ immediate withholding unless one of the following occurs:

a. One of the parties demonstrates and the court or child support recovery unit finds there is good cause not to require immediate withholding. A finding of good cause shall be based on, at a minimum, written findings and conclusions by the court or administrative authority as to why implementing immediate withholding would not be in the best interests of the child. In cases involving modifications, the findings shall also include proof of timely payment of previously ordered support.

b. A written agreement is reached between both parties which provides for an alternative arrangement. If

~~2.~~ ~~If~~ the support payments have been assigned to the department of human services pursuant to chapter 234 or 239, or a comparable statute of another jurisdiction, the department shall be considered a party to the support order, and a written agreement pursuant to this section to waive immediate withholding is void unless approved by the child support recovery unit. Any ~~existing~~ agreement ~~is void~~ existing at the time an assignment of support ~~to the state~~

is made pursuant to chapter 234 or 239 or pursuant to a comparable statute of another jurisdiction shall not prevent the child support recovery unit from implementing immediate withholding.

~~3.~~ 2. For an order not requiring immediate withholding, income of an obligor is subject to immediate withholding, without regard to whether there is an arrearage, on the earliest of the following:

a. The date the obligor requests that the withholding begin.

b. The date the custodial parent or party to the proceeding requests that the withholding begin, if the request is approved by the district court or, in cases in which services are being provided pursuant to chapter 252B, if the child support recovery unit approves the request.

Sec. 12. NEW SECTION. 252D.17A NOTICE TO EMPLOYER OR INCOME PAYOR — DUTIES AND LIABILITY — CRIMINAL PENALTY.

The child support recovery unit or the district court shall provide notice of income withholding to the obligor's employer, trustee, or other payor of income. Notice shall be sent by regular mail, with proof of service completed according to rule of civil procedure 82 and, in addition to the amount to be withheld for payment of support, shall include all of the following information regarding the duties of the payor in implementing the withholding order:

1. The withholding order for child support has priority over a garnishment or an assignment for a purpose other than the support of the dependents in the court order being enforced.

2. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment in addition to the amount withheld for support.

3. The amount withheld for support, including the processing fee, shall not exceed the amounts specified in 15 U.S.C. § 1673(b).

4. Income withholding is binding on an existing or future employer, trustee, or other payor ten days after receipt of the notice.

5. The payor shall send the amounts withheld to the collection services center or the clerk of the district court within ten working days of the date the obligor is paid.

6. The payor may combine amounts withheld from the obligor's wages in a single payment to the clerk of the district court or to the collection services center, as appropriate. Whether combined or separate, payments shall be identified by the name of the obligor, account number, amount, and the date withheld. If payments for multiple obligors are combined, the portion of the payment attributable to each obligor shall be specifically identified.

7. The payor shall deliver or send a copy of the order to the person named in the order within one business day after receipt of notice.

8. The withholding is binding on the payor until further notice by the court or the child support recovery unit.

9. If the payor fails to withhold income in accordance with the provisions of the order, the payor is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

10. The payor shall promptly notify the court or the child support recovery unit when the obligor's employment or other income terminates, and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

11. Any payor who discharges an obligor, refuses to employ an obligor, or takes disciplinary action against an obligor based upon income withholding is guilty of a simple misdemeanor. A withholding order has the same force and effect as any other district court order, including, but not limited to, contempt of court proceedings for noncompliance.

Sec. 13. Section 252D.18, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

252D.18 MODIFICATION OR TERMINATION OF WITHHOLDING.

1. The court or the child support recovery unit may, by ex parte order, modify a previously entered income withholding order if the court or the unit determines any of the following:

a. There has been a change in the amount of the current support obligation.

b. The amount required to be withheld under the income withholding order is in error.

c. Any past due support debt has been paid in full. Should a delinquency later accrue, the withholding order may be modified to secure payment toward the delinquency.

2. The court or the child support recovery unit may, by ex parte order, terminate an income withholding order when the current support obligation has terminated and when the delinquent support obligation has been fully satisfied as applicable to all of the children covered by the income withholding order.

3. In no case shall payment of overdue support be the sole basis for termination of withholding.

Sec. 14. NEW SECTION. 252D.18A MULTIPLE INCOME WITHHOLDING ORDERS — AMOUNTS WITHHELD BY PAYOR.

When the obligor is responsible for paying more than one support obligation and the employer or the income payor has received more than one income withholding order for the obligor, the payor shall withhold amounts in accordance with all of the following:

1. The total of all amounts withheld shall not exceed the amounts specified in 15 U.S.C. § 1673(b).

2. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment withheld in addition to the amount withheld for support.

3. Priority shall be given to the withholding of current support rather than delinquent support. The payor shall not allocate amounts withheld in a manner which results in the failure to withhold an amount for one or more of the current support obligations.

a. To arrive at the amount to be withheld for each obligee, the payor shall total the amounts due for current support under the income withholding orders and determine the proportionate share for each obligee. The proportionate share shall be determined by dividing the amount due for current support for each order by the total due for current support for all orders. The results are the percentages of the obligor's net income which shall be withheld for each obligee.

b. If, after completing the calculation in paragraph "a", the withholding limit specified under 15 U.S.C. § 1673(b) has not been attained, the payor shall total the amounts due for arrearages and determine the proportionate share for each obligee. The proportionate share amounts shall be established utilizing the procedures established in paragraph "a" for current support obligations.

4. The payor shall identify and report payments by the obligor's name, account number, amount, and date withheld pursuant to section 252D.17A. If payments for multiple obligees are combined, the portion of the payment attributable to each obligee shall be specifically identified.

Sec. 15. NEW SECTION. 252D.18B IRREGULAR INCOME.

When payment of income is irregular, and an order for immediate or mandatory income withholding has been entered by the child support recovery unit or the district court, the income payor shall withhold income equal to the total that would have been withheld had there been regular monthly income. The amounts withheld shall not exceed the amounts specified in 15 U.S.C. § 1673(b). For the purposes of this section, an income source is irregular when there are periods in excess of one month during which the income payor makes no payment to the obligor and the periods are not the result of termination or suspension of employment.

Sec. 16. NEW SECTION. 252D.18C WITHHOLDING FROM LUMP SUM PAYMENTS.

The child support recovery unit or the district court may enter an ex parte order for income withholding when the obligor is paid by a lump sum income source. When a sole payment is made or payment occurs at two month or greater intervals, the withholding order may include all current and delinquent support due through the current month, but shall not exceed the amounts specified in 15 U.S.C. § 1673(b).

Sec. 17. NEW SECTION. 252D.24 APPLICABILITY TO SUPPORT ORDERS OF FOREIGN JURISDICTIONS.

1. An income withholding order may be entered to enforce a support order of a foreign jurisdiction. The foreign support order may be entered and filed with the clerk of the district court at the time the income withholding order is entered. Entry of the foreign support order under this subsection does not constitute registration of the order.

2. Notice of withholding requirements pursuant to section 252D.3 are met if comparable notice was issued in the foreign jurisdiction, was included in the support order, or was provided as a separate written notice.

3. Income withholding for a support order issued by a foreign jurisdiction is subject to the law and procedures for income withholding of the jurisdiction where the income withholding order is implemented. With respect to when the obligor becomes subject to withholding, however, the law and procedures of the jurisdiction where the support order was entered apply.

Sec. 18. NEW SECTION. 252D.25 LIMITATIONS ON SCOPE OF PROCEEDINGS.

1. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a motion to quash, revoke, suspend, or stay a withholding order.

2. Support orders shall not be modified under a motion to quash a withholding order.

Sec. 19. NEW SECTION. 252D.30 EX PARTE ORDER — PROVISIONS FOR MEDICAL SUPPORT.

An ex parte order entered under this chapter may also include provisions for enforcement of medical support when medical support provisions are included in the support order. The ex parte order may require income withholding of a dollar amount for medical support or implementation of provision for dependent coverage under a health benefit plan pursuant to chapter 252E.

Sec. 20. Section 252E.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10. "Order" means a support order entered pursuant to chapter 234, 252A, 252C, 252H, 598, 600B, or any other support chapter, or pursuant to a comparable statute of a foreign jurisdiction, or an ex parte order entered pursuant to section 252E.4.

Sec. 21. Section 252E.2, Code 1993, is amended to read as follows:

252E.2 ORDER FOR MEDICAL SUPPORT.

1. ~~The entry of an~~ An order~~, pursuant to chapter 234, 252A, 252C, 598, 600B 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.

2. The obligor shall take all actions necessary to enroll and maintain coverage under a health benefit plan for a dependent at the obligor's present and all future places of employment.

Sec. 22. Section 252E.4, Code 1993, is amended to read as follows:

252E.4 ~~COPY OF~~ ORDER TO EMPLOYER.

~~The obligor shall take all steps necessary to enroll and maintain coverage under a health benefit plan for a dependent at present and all future places of employment, and shall send a copy of the order requiring the coverage to the obligor's employer.~~

~~1. Within fifteen days of entry of the order, the obligor shall provide written proof to the obligee and the department that the required coverage has been obtained or that application for coverage has been made.~~

~~2. If the obligor fails to provide written proof as required in subsection 1, a copy of the order for medical support shall be forwarded to the obligor's employer by the obligee or the department.~~

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor's dependent for coverage under a health benefit plan.

2. The obligee, district court, or department may forward either the support order containing the provision for coverage under a health benefit plan or the ex parte order provided for in subsection 1 to the obligor's employer.

3. ~~The~~ This chapter shall be constructive notice to the obligor of enforcement and further notice prior to enforcement is not required.

4. The order requiring coverage is binding on all future employers or insurers if the dependent is eligible to be enrolled in the health benefit plan under the applicable plan terms and conditions.

Sec. 23. Section 252E.11, Code 1993, is amended to read as follows:

252E.11 ASSIGNMENT.

If medical assistance ~~coverage~~ is provided by the department to a dependent pursuant to chapter 249A, rights to medical support payments are assigned to the department ~~pursuant to federal regulations~~.

SUBCHAPTER I
GENERAL PROVISIONS

Sec. 24. NEW SECTION. 252H.1 PURPOSE AND INTENT.

This chapter is intended to provide a means for state compliance with the federal Family Support Act of 1988, requiring states to provide procedures for the review and adjustment of support orders being enforced under Title IV-D of the federal Social Security Act, and also to provide an expedited modification process when review and adjustment procedures are not required, appropriate, or applicable. Actions under this chapter shall be initiated only by the child support recovery unit.

Sec. 25. NEW SECTION. 252H.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires "administrator", "caretaker", "court order", "department", "dependent child", "medical support", "public assistance", and "responsible person", mean the same as defined in section 252C.1.

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

1. "Act" means the federal Social Security Act.

2. "Adjustment" applies only to the child support provisions of a support order and means either of the following:

a. A change in the amount of child support based upon an application of the child support guidelines established pursuant to section 598.21, subsection 4.

b. An addition of or change to provisions for medical support as defined in section 252E.1.

3. "Child" means a child as defined in section 252B.1.

4. "Child support agency" means any state, county, or local office or entity of another state that has the responsibility for providing child support enforcement services under Title IV-D of the Act.

5. "Child support recovery unit" or "unit" means the child support recovery unit created pursuant to section 252B.2.

6. "Modification" means either of the following:

a. An alteration, change, correction, or termination of an existing support order.

b. The establishment of a child or medical support obligation in a previously established order entered pursuant to chapter 234, 252A, 252C, 598, 600B, or any other support proceeding, in which such support was not previously established, or in which support was previously established and subsequently terminated prior to the emancipation of the children affected.

7. "Parent" means, for the purposes of requesting a review of a support order and for being entitled to notice under this chapter:

a. The individual ordered to pay support pursuant to the order.

b. An individual or entity entitled to receive current or future support payments pursuant to the order, or pursuant to a current assignment of support including but not limited to an agency of this or any other state that is currently providing public assistance benefits to the child for whom support is ordered and any child support agency. Service of notice of an action initiated under this chapter on an agency is not required, but the agency may be advised of the action by other means.

8. "Public assistance" means benefits received in this state or any other state, under Title IV-A (aid to dependent children), IV-E (foster care), or XIX (medicaid) of the Act.

9. "Review" means an objective evaluation conducted through a proceeding before a court, administrative body, or an agency, of information necessary for the application of a state's mandatory child support guidelines to determine:

a. The appropriate monetary amount of support.

b. Provisions for medical support.

10. "State" means "state" as defined in section 252A.2.

11. "Support order" means a "court order" as defined in section 252C.1 or an order establishing support entered pursuant to an administrative or quasi-judicial process if authorized by law.

Sec. 26. NEW SECTION. 252H.3 SCOPE OF THE ADMINISTRATIVE ADJUSTMENT OR MODIFICATION — ROLE OF DISTRICT COURT IN CONTESTED CASES.

1. Any action initiated under this chapter, including any court hearing resulting from an action, shall be limited in scope to the adjustment or modification of the child or medical support provisions of a support order.

2. Nonsupport issues shall not be considered by the unit or the court in any action resulting under this chapter.

3. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and resulting court hearings following certification shall be an original hearing before the district court.

Sec. 27. NEW SECTION. 252H.4 ROLE OF THE CHILD SUPPORT RECOVERY UNIT.

1. The unit may administratively adjust or modify a support order entered under chapter 234, 252A, 252C, 598, or 600B, or any other support chapter if the unit is providing enforcement services pursuant to chapter 252B. The unit is not required to intervene to administratively adjust or modify a support order under this chapter.

2. The unit is a party to an action initiated pursuant to this chapter.

3. The unit shall conduct a review to determine whether an adjustment is appropriate or, upon the request of a parent or upon the unit's own initiative, determine whether a modification is appropriate.

4. The unit shall adopt rules pursuant to chapter 17A to establish the process for the review of requests for adjustment, the criteria and procedures for conducting a review and determining when an adjustment is appropriate, and other rules necessary to implement this chapter.

5. Legal representation of the unit shall be provided pursuant to section 252B.7, subsection 4.

Sec. 28. NEW SECTION. 252H.5 FEES AND COST RECOVERY FOR REVIEW — ADJUSTMENT — MODIFICATION.

The unit shall, consistent with applicable federal law, charge the following fees for providing the services described in this chapter:

1. A parent ordered to provide support, who requests a review of a support order under subchapter II, shall file an application for services and pay an application fee pursuant to section 252B.4.

2. A parent requesting a service shall pay the fee established for that service as established under this subsection. The fees established are not applicable to a parent who as a condition of eligibility for receiving public assistance benefits has assigned the rights to child or medical support for the order to be reviewed. The following fees shall be paid for the following services:

a. A fee for conducting the review, to be paid at the time the request for review is submitted to the unit. If the request for review is denied for any reason, the fee shall be refunded to the parent making the request. Any request submitted without full payment of the fee shall be denied.

b. A fee for a second review requested pursuant to section 252H.17, to be paid at the time the request for the second review is submitted to the unit. Any request submitted without full payment of the fee shall be denied.

c. A fee for activities performed by the unit in association with a court hearing requested pursuant to section 252H.8.

d. A fee for activities performed by the unit in entering an administrative order to adjust support when neither parent requests a court hearing pursuant to section 252H.8. The fee shall be paid during the post-review waiting period under section 252H.17. If the fee is not paid in full during the post-review notice period, further action shall not be taken by the unit to adjust the order unless the parent not requesting the adjustment pays the fee in full during the post-review waiting period, or unless the children affected by the order reviewed are currently receiving public assistance benefits and the proposed adjustment would result in either an increase in the amount of support or in provisions for medical support for the children.

e. A fee for conducting a conference requested pursuant to section 252H.20.

3. A parent who requests a review of a support order pursuant to section 252H.13, shall pay any service of process fees for service or attempted service of the notice required in section 252H.15. The unit shall not proceed to conduct a review pursuant to section 252H.16 until service of process fees have been paid in full. The service of process fee requirement of this subsection is not applicable to a parent who as a condition of eligibility for public assistance benefits has assigned the rights to child or medical support for the order to be reviewed. Service of process fees charged by a person other than the unit are distinct from any other fees and recovery of costs provided for in this section.

4. The unit shall, consistent with applicable federal law, recover administrative costs in excess of any fees collected pursuant to subsections 1, 2, and 3 for providing services under this chapter and shall adopt rules providing for collection of fees for administrative costs.

5. The unit shall adopt rules pursuant to chapter 17A to establish procedures and criteria to determine the amount of any fees specified in this section and the administrative costs in excess of these fees.

Sec. 29. NEW SECTION. 252H.6 COLLECTION OF INFORMATION.

The unit shall request, obtain, and validate information concerning the financial circumstances of the parents of a child as necessary to determine the appropriate amount of support pursuant to the guidelines established in section 598.21, subsection 4, including but not limited to those sources and procedures described in sections 252B.7A and 252B.9. The collection of information does not constitute a review conducted pursuant to section 252H.16.

Sec. 30. NEW SECTION. 252H.7 WAIVER OF NOTICE PERIODS AND TIME LIMITATIONS.

1. A parent may waive the thirty-day prereview waiting period provided for in section 252H.16.

a. Upon receipt of signed requests from both parents waiving the prereview waiting period, the unit may conduct a review of the support order prior to the expiration of the thirty-day period provided in section 252H.16.

b. If the parents jointly waive the prereview waiting period and the order under review is subsequently adjusted, the signed statements of both parents waiving the waiting period shall be filed in the court record with the order adjusting the support obligation.

2. A parent may waive the post-review waiting period provided for in section 252H.8, subsection 6, for a court hearing or in section 252H.17 for requesting of a second review.

a. Upon receipt of signed requests from both parents subject to the order reviewed, waiving the post-review waiting period, the unit may enter an administrative order adjusting the support order, if appropriate, prior to the expiration of the post-review waiting period.

b. If the parents jointly waive the post-review waiting period and an administrative order to adjust the support order is entered, the signed statements of both parents waiving the waiting period shall be filed in the court record with the administrative order adjusting the support obligation.

3. A parent may waive the time limitations established in section 252H.8, subsection 2, for requesting a court hearing, or in section 252H.20 for requesting a conference.

a. Upon receipt of signed requests from both parents who are subject to the order to be modified, waiving the time limitations, the unit may proceed to enter an administrative modification order.

b. If the parents jointly waive the time limitations and an administrative modification order is entered under this chapter, the signed statements of both parents waiving the time limitations shall be filed in the court record with the administrative modification order.

Sec. 31. NEW SECTION. 252H.8 CERTIFICATION TO COURT — HEARING — DEFAULT.

1. For actions initiated under subchapter II, either parent or the unit may request a court hearing within thirty days from the date of issuance of the notice of decision under section 252H.16, or within ten days of the date of issuance of the second notice of decision under section 252H.17, whichever is later.

a. A court hearing shall not be granted if the review resulted in a determination that the adjustment was not appropriate.

b. If a court hearing is not granted pursuant to paragraph "a", a party retains the right to file a modification action upon the party's own initiative.

2. For actions initiated under subchapter III, either parent or the unit may request a court hearing within the latest of any of the following time periods:

a. Twenty days from the date of successful service of the notice of intent to modify required under section 252H.19.

b. Ten days from the date scheduled for a conference to discuss the modification action.

c. Ten days from the date of issuance of a second notice of a proposed modification action.

3. The time limitations for requesting a court hearing under this section may be extended by the unit.

4. If a timely written request for a hearing is received by the unit and the granting of the request is not precluded pursuant to subsection 1, a hearing shall be held in district court, and the unit shall certify the matter to the district court in the county in which the order subject to adjustment or modification is filed. The certification shall include the following, as applicable:

a. Copies of the notice of intent to review or notice of intent to modify.

b. The return of service, acceptance of service, or signed statement by the parent requesting review and adjustment waiving service of the notice.

c. Copies of the notice of decision and any revised notice as provided in section 252H.16.

d. Copies of any written objections to and request for a second review or conference or hearing.

e. Copies of any second notice of decision issued pursuant to section 252H.17, or second notice of proposed modification action issued pursuant to section 252H.20.

f. Copies of any financial statements and supporting documentation provided by the parents.

g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section 598.21, subsection 4.

5. The court shall set the matter for hearing and notify the parties of the time and place of the hearing.

6. For actions initiated under subchapter II, a hearing shall not be held for at least thirty-one days following the date of issuance of the notice of decision unless the parents have jointly waived, in writing, the thirty-day post-review period.

7. Pursuant to section 252H.3, the district court shall review the matter as an original hearing before the court.

8. Issues subject to review by the court in any hearing resulting from an action initiated under this chapter shall be limited to the issues identified in section 252H.3.

9. Notwithstanding any other law to the contrary, if more than one support order exists involving children with the same legally established parents, one hearing on all of the affected support orders shall be held in the district court in the county where the unit files the action. For the purposes of this subsection, the district court hearing the matter shall have jurisdiction over all other support orders entered by a court of this state and affected under this subsection.

10. The court shall establish the amount of child support pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

11. If a party fails to appear at the hearing, upon a showing of proper notice to the party, the court may find the party in default and enter an appropriate order.

Sec. 32. NEW SECTION. 252H.9 FILING AND DOCKETING OF ADMINISTRATIVE ADJUSTMENT OR MODIFICATION ORDER — ORDER EFFECTIVE AS DISTRICT COURT ORDER.

1. If timely request for a court hearing is not made pursuant to section 252H.8, the unit shall prepare and present an administrative order for adjustment or modification, as applicable, for review and approval, ex parte, to the district court where the order to be adjusted or modified is filed.

2. The unit shall determine the appropriate amount of the child support obligation using the current child support guidelines established pursuant to section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A and shall determine the provisions for medical support pursuant to chapter 252E.

3. The administrative order prepared by the unit shall specify all of the following:

a. The amount of support to be paid and the manner of payment.

b. The name of the custodian of any child for whom support is to be paid.

c. The name of the parent ordered to pay support.

d. The name and birth date of any child for whom support is to be paid.

e. That the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and other methods of execution.

f. Provisions for medical support.

4. Supporting documents as described in section 252H.8, subsection 4, may be presented to the court with the administrative order, as applicable.

5. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order. Upon filing, the approved order shall have the same force, effect, and attributes of an order of the district court.

6. Upon filing, the clerk of the district court shall enter the order in the judgment docket and judgment lien index.

7. A copy of the order shall be sent by regular mail to each parent's last known address, or if applicable, to the last known address of the parent's attorney.

8. The order is final, and action by the unit to enforce and collect upon the order, including arrearages and medical support, or both, may be taken from the date of the entry of the order by the district court.

Sec. 33. NEW SECTION. 252H.10 EFFECTIVE DATE OF ADJUSTMENT — MODIFICATION.

Pursuant to section 598.21, subsection 8, any administrative or court order resulting from an action initiated under this chapter may be made retroactive only to the date that all parties were successfully served the notice required under section 252H.15 or section 252H.19, as applicable.

Sec. 34. NEW SECTION. 252H.11 CONCURRENT ACTIONS.

This chapter does not prohibit or affect the ability or right of a parent or the parent's attorney, to file a modification action at the parent's own initiative. If a modification action is filed by a parent concerning an order for which an action has been initiated but has not yet been completed by the unit under this chapter, the unit shall terminate any action initiated under this chapter, subject to the following:

1. The modification action filed by the parent must address the same issues as the action initiated under this chapter.

2. If the modification action filed by the parent is subsequently dismissed before being heard by the court, the unit shall continue the action previously initiated under this chapter, or initiate a new action as follows:

a. If the unit previously initiated an action under subchapter II, and had not issued a notice of decision as required under section 252H.16, the unit shall proceed as follows:

(1) If notice of intent to review was served ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall complete the review and issue the notice of decision.

(2) If the modification action filed by the parent is dismissed more than ninety days after the original notice of intent to review was served, the unit shall serve or issue a new notice of intent to review and conduct the review.

b. If the unit previously initiated an action under subchapter II and had issued the notice of decision as required under section 252H.16, the unit shall proceed as follows:

(1) If the notice of decision was issued ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall request, obtain, and verify any new or different information concerning the financial circumstances of the parents and issue a revised notice of decision to each parent, or if applicable, to the parent's attorney.

(2) If the modification action filed by the parent is dismissed more than ninety days after the date of issuance of the notice of decision, the unit shall serve or issue a new notice of intent to review pursuant to section 252H.15 and conduct a review pursuant to section 252H.16.

c. If the unit previously initiated an action under subchapter III, the unit shall proceed as follows:

(1) If the modification action filed by the parent is dismissed more than ninety days after the original notice of intent to modify was served, the unit shall serve a new notice of intent to modify pursuant to section 252H.19.

(2) If the modification action filed by the parent is dismissed ninety days or less after the original notice of intent to modify was served, the unit shall complete the original modification action initiated by the unit under this subchapter.

(3) Each parent shall be allowed at least twenty days from the date the administrative modification action is reinstated to request a court hearing as provided for in section 252H.8.

3. If an action initiated under this chapter is terminated as the result of a concurrent modification action filed by one of the parents or the parent's attorney, the unit shall advise each parent, or if applicable the parent's attorney, in writing, that the action has been terminated and the provisions of subsection 2 of this section for continuing or initiating a new action under this chapter. The notice shall be issued by regular mail to the last known mailing address of each parent, or if applicable, each parent's attorney.

4. If an action initiated under this chapter by the unit is terminated as the result of a concurrent action filed by one of the parents and is subsequently reinstated because the modification action filed by the parent is dismissed, the unit shall advise each parent, or if applicable, each parent's attorney, in writing, that the unit is continuing the prior administrative adjustment or modification action. The notice shall be issued by regular mail to the last known mailing address of each parent, or if applicable, each parent's attorney.

SUBCHAPTER II
REVIEW AND ADJUSTMENT

Sec. 35. NEW SECTION. 252H.12 SUPPORT ORDERS SUBJECT TO REVIEW AND ADJUSTMENT.

A support order meeting all of the following conditions is eligible for review and adjustment under this subchapter:

1. The support order is subject to the jurisdiction of this state for the purposes of adjustment.

2. The support order provides for the ongoing support of at least one child under the age of eighteen or a child between the ages of eighteen and nineteen who has not yet graduated from high school but who is reasonably expected to graduate from high school before attaining the age of nineteen.

3. The ongoing support for at least one child described in subsection 2 continues, under the terms of the order, beyond October 13, 1993.

4. The unit is providing enforcement services for the ongoing support obligation pursuant to chapter 252B.

Sec. 36. NEW SECTION. 252H.13 RIGHT TO REQUEST REVIEW.

A parent shall have the right to request the review of a support order for which the unit is currently providing enforcement services of an ongoing child support obligation pursuant to chapter 252B.

Sec. 37. NEW SECTION. 252H.14 REVIEWS INITIATED BY THE CHILD SUPPORT RECOVERY UNIT.

1. The unit shall periodically initiate a review of support orders meeting the conditions in section 252H.12 in accordance with the following:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The right to any ongoing medical support obligation is currently assigned to the state due to the receipt of public assistance unless:

(1) The support order already includes provisions requiring the parent ordered to pay child support to also provide medical support.

(2) The parent entitled to receive support has satisfactory health insurance coverage for the children, excluding coverage resulting from the receipt of public assistance benefits.

2. The unit shall periodically initiate a request to a child support agency of another state to conduct a review of a support order entered in that state when the right to any ongoing child or medical support obligation due under the order is currently assigned to the state of Iowa.

3. The unit shall adopt rules establishing criteria to determine the appropriateness of initiating a review.

4. The unit shall initiate reviews under this section in accordance with the federal Family Support Act of 1988.

Sec. 38. NEW SECTION. 252H.15 NOTICE OF INTENT TO REVIEW AND ADJUST.

1. Prior to conducting a review of a support order, the unit shall issue a notice of intent to review and adjust to each parent, or if applicable, to each parent's attorney. However, notice to a child support agency or an agency entitled to receive child or medical support payments as the result of an assignment of support rights is not required.

2. Notice shall be served upon each parent in accordance with the rules of civil procedure, except that a parent requesting a review pursuant to section 252H.13 may waive the right to personal service of the notice in writing and accept service by regular mail. If the service by regular mail does not occur within ninety days of the written waiver of personal service, personal service of the notice is required unless a new waiver of personal service is obtained.

3. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. The legal basis and purpose of the action.

b. Information sufficient to identify the affected parties and the support order or orders affected.

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21, subsection 4.

d. An explanation of the legal rights and responsibilities of the affected parties, including the time frames in which the parties must act.

e. Criteria for determining appropriateness of an adjustment and a statement that the unit will use the child support guidelines established pursuant to section 598.21, subsection 4, and the provisions for medical support pursuant to chapter 252E to adjust the order.

f. Procedures for contesting the action.

g. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

h. Other information as appropriate.

Sec. 39. NEW SECTION. 252H.16 CONDUCTING THE REVIEW — NOTICE OF DECISION.

1. The unit shall conduct the review and determine whether an adjustment is appropriate.

2. Unless both parents have waived the prereview notice period as provided for in section 252H.7, the review shall not be conducted for at least thirty days from the date both parents were successfully served with the notice required in section 252H.15.

3. Upon completion of the review, the unit shall issue a notice of decision by regular mail to the last known address of each parent, or if applicable, each parent's attorney.

4. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. Information sufficient to identify the affected parties and the support order or orders affected.

b. A statement indicating whether the unit finds that an adjustment is appropriate and the basis for the determination.

c. Other information, as appropriate.

5. A revised notice of decision shall be issued when the unit receives or becomes aware of new or different information affecting the results of the review after the notice of decision has been issued and before the entry of an administrative order adjusting the support order, when new or different information is not received in conjunction with a request for a second review, or subsequent to a request for a court hearing. If a revised notice of decision is issued, the time frames for requesting a second review or court hearing shall apply from the date of issuance of the revised notice.

Sec. 40. NEW SECTION. 252H.17 CHALLENGING THE NOTICE OF DECISION — SECOND REVIEW — NOTICE.

1. Each parent shall have the right to challenge the notice of decision issued under section 252H.16, by requesting a second review by the unit.

2. A challenge shall be submitted, in writing, to the local child support office that issued the notice of decision, within the following time frames:

a. If the notice of decision indicates that an adjustment is not appropriate, a challenge shall be submitted within thirty days of the date of issuance of the notice.

b. If the notice of decision indicates that an adjustment is appropriate, a challenge shall be submitted within ten days of the issuance of the notice.

3. A parent challenging the notice of decision shall submit any new or different information, not previously considered by the unit in conducting the review, with the challenge and request for second review.

4. A parent challenging the notice of decision shall submit any required fees with the challenge. Any request submitted without full payment of the required fee shall be denied.

5. If a timely challenge along with any necessary fee is received, the unit shall issue by regular mail to the last known address of each parent, or if applicable, to each parent's attorney, a notice that a second review will be conducted. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. A statement of purpose of the second review.

b. Information sufficient to identify the affected parties and the support order or orders affected.

c. A statement of the information that is eligible for consideration at the second review.

d. The procedures and time frames in conducting and completing a second review, including a statement that only one second review shall be conducted as the result of a challenge received from either or both parents.

e. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

f. Other information, as appropriate.

6. The unit shall conduct a second review, utilizing any new or additional information provided or available since issuance of the notice of decision under section 252H.16, to determine whether an adjustment is appropriate.

7. Upon completion of the review, the unit shall issue a second notice of decision by regular mail to the last known address of each parent, or if applicable, to each parent's attorney. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. Information sufficient to identify the affected parties and the support order or orders affected.

b. The unit's finding resulting from the second review indicating whether the unit finds that an adjustment is appropriate, the basis for the determination, and the impact on the first review.

c. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

d. Other information, as appropriate.

8. If the determination resulting from the first review is revised or reversed by the second review, the following shall be issued to each parent along with the second notice of decision and the amount of any proposed adjustment:

a. Any updated or revised financial statements provided by either parent.

b. A computation prepared by the local child support office issuing the notice, demonstrating how the amount of support due under the child support guidelines was calculated, and a comparison of the newly computed amount with the current support obligation amount.

SUBCHAPTER III
ADMINISTRATIVE MODIFICATION

Sec. 41. NEW SECTION. 252H.18 ORDERS SUBJECT TO ADMINISTRATIVE MODIFICATION.

An order meeting all of the following conditions is eligible for administrative modification under this subchapter.

1. The order is subject to the jurisdiction of this state for the purposes of modification.

2. The unit is providing services pursuant to chapter 252B.

3. The child was conceived or born during a marriage or paternity has been legally established.

4. Review and adjustment services pursuant to subchapter II are not required or are not applicable.

Sec. 42. NEW SECTION. 252H.19 NOTICE OF INTENT TO MODIFY.

1. The unit shall issue a notice of intent to modify to each parent. Notice to a child support agency or an agency entitled to receive child or medical support payments as the result of an assignment of support rights is not required.

2. The notice shall be served upon each parent in accordance with the rules of civil procedure. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. The legal basis and purpose of the action.

b. Information sufficient to identify the affected parties and the support order or orders affected.

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21, subsection 4.

d. An explanation of the legal rights and responsibilities of the affected parties, including the time frames in which the parties must act.

e. Procedures for contesting the action through a conference or a court hearing.

f. Other information, as appropriate.

Sec. 43. NEW SECTION. 252H.20 CONFERENCE — SECOND NOTICE AND FINDING OF FINANCIAL RESPONSIBILITY.

1. Each parent shall have the right to request a conference with the office of the unit that issued the notice of intent to modify. The request may be made in person, in writing, or by telephone, and shall be made within ten days of the date of successful service of the notice of intent to modify.

2. A parent requesting a conference shall submit any required fee no later than the date of the scheduled conference. A conference shall not be held unless the required fee is paid in full.

3. Upon a request and full payment of any required fee, the office of the unit that issued the notice of intent to modify shall schedule a conference with the parent and advise the parent of the date, time, place, and procedural aspects of the conference. The unit shall adopt rules pursuant to chapter 17A to specify the manner in which a conference is conducted and the purpose of the conference.

4. Following the conference, the office of the unit that conducted the review shall issue a second notice of proposed modification and finding of financial responsibility to the parent requesting the conference. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. Information sufficient to identify the affected parties and the support order or orders affected.

b. If the unit will continue or terminate the action.

c. Procedures for contesting the action and the applicable time frames for actions by the parents.

d. Other information, as appropriate.

Sec. 44. Section 598.21, subsection 8, unnumbered paragraph 2, Code 1993, is amended to read as follows:

A modification of a support order entered under chapter 234, 252A, ~~chapter~~ 252C, 600B, ~~or~~ this chapter, or any other support chapter or proceeding between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 234.39, 239.3, or 252E.11, the department shall be considered a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

Sec. 45. Section 598.21, subsection 9, Code 1993, is amended to read as follows:

9. Notwithstanding subsection 8, a substantial change of circumstances exists when the court order for child support ~~deviates~~ varies by ten percent or more from the amount which would

be due pursuant to the most current child support guidelines established pursuant to subsection 4 or the obligor has access to a health benefit plan, the current order for support does not contain provisions for medical support, and the dependents are not covered by a health benefit plan provided by the obligee, excluding coverage pursuant to chapter 249A or a comparable statute of a foreign jurisdiction.

This basis for modification is applicable to petitions filed on or after July 1, 1992, notwithstanding whether the guidelines prescribed by subsection 4 were used in establishing the current amount of support. Upon application for a modification of an order for child support ~~where~~ for which services are being received pursuant to chapter 252B, the court shall set the amount of child support based upon the most current child support guidelines established pursuant to subsection 4, including provisions for medical support pursuant to chapter 252E. The child support recovery unit shall, in submitting an application for modification or adjustment of an order for support, employ additional criteria and procedures ~~for the review and adjustment of support awards,~~ as provided in chapter 252H and as established by rule.

Sec. 46. Section 598.21, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. Notwithstanding any other provision of law to the contrary, when an application for modification or adjustment of support is submitted by the child support recovery unit, the sole issues which may be considered by the court in that action are the application of the guidelines in establishing the amount of support pursuant to section 598.21, subsection 4, and provision for medical support under chapter 252E. Issues related to custody, visitation, or other provisions unrelated to support shall be considered only under a separate application for modification.

Sec. 47. Sections 252D.12, 252D.13, and 252D.14, Code 1993, are repealed.

Sec. 48. ADOPTION OF EMERGENCY RULES. The department of human services may adopt rules under section 17A.4, subsection 2, to implement chapter 252H. The rules shall become effective immediately upon filing pursuant to section 17A.5, subsection 2, unless a later effective date is specified in the rules. Rules adopted in accordance with this paragraph shall also be published as a notice of intended action as provided in section 17A.4. If the department determines that rules are necessary to clarify section 252B.4, subsection 2A, the department may proceed to adopt rules in the manner provided for in this section.

Sec. 49. IMPLEMENTATION. In implementing section 252B.4, subsection 2B, the department of human services shall consider recovery of costs from both the custodial and noncustodial parents. Identification of costs to be recovered and the adoption of rules may be completed in stages. The department shall give notice of intended action for initial rules by June 30, 1995.

Sec. 50. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. Sections 7, 48, 49, and this section of this Act, being deemed of immediate importance, take effect upon enactment.

2. Section 45 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

Approved May 3, 1993

CHAPTER 79

CHILD SUPPORT — CENTRALIZED EMPLOYEE REGISTRY, ESTABLISHMENT OF PATERNITY, AND OTHER MATTERS

S.F. 350

AN ACT relating to child support and providing for civil penalties and an effective date.

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

DIVISION I
TITLE

Section 1. This Act shall be known and may be referred to as the "Iowa Child Support Recovery Act of 1993".

DIVISION II
CENTRALIZED EMPLOYEE REGISTRY

Sec. 2. Section 22.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 29. The information contained in records of the centralized employee registry created in chapter 252G, except to the extent that disclosure is authorized pursuant to chapter 252G.

Sec. 3. NEW SECTION. 252G.1 DEFINITIONS.

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

1. "Compensation" means payment owed by the payor of income for:

a. Labor or services rendered by an employee or contractor to the payor of income.

b. Benefits including, but not limited to, vacation, holiday, and sick leave, and severance payments which are due an employee under an agreement with the employer or under a policy of the employer.

1A. "Contractor" means a natural person who is an independent contractor, including an independent trucking owner or operator.

2. "Date of hire" means the earlier of either of the following:

a. The first day for which the employee or contractor is owed compensation by the payor of income.

b. The first day that an employee or contractor reports to work or performs labor or services for the payor of income.

3. "Days" means calendar days.

4. "Department" means the department of human services.

5. "Dependent" includes a spouse or child or any other person who is in need of and entitled to support from a person who is declared to be legally liable for the support of that dependent.

6. "Employee" means a natural person who is employed by an employer in this state for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation.

7. "Employer" means a person doing business in the state who engages an employee for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation.

7A. "Payor of income" includes both an employer and a person doing business in the state who engages a contractor for compensation.

8. "Registry" means the central employee registry created in section 252G.2.

9. "Rehire" means the earlier of either of the following:

a. The first day for which the employee or contractor is owed compensation by the payor of income following an unpaid absence of a minimum of six consecutive weeks.

b. The first day that an employee or contractor reports to work or performs labor or services for the payor of income following an unpaid absence of a minimum of six consecutive weeks.

10. "Unit" means the child support recovery unit created in section 252B.2.

Sec. 4. NEW SECTION. 252G.2 ESTABLISHMENT OF CENTRAL EMPLOYEE REGISTRY.

By January 1, 1994, the unit shall establish a centralized employee registry database for the purpose of receiving and maintaining information on newly hired or rehired employees from employers. The unit shall establish the database and the department may adopt rules in conjunction with the department of revenue and finance and the department of employment services to identify appropriate uses of the registry and to implement this chapter, including implementation through the entering of agreements pursuant to chapter 28E.

Sec. 5. NEW SECTION. 252G.3 EMPLOYER REPORTING REQUIREMENTS – PENALTY.

1. Beginning January 1, 1994, an employer who hires or rehires an employee on or after January 1, 1994, shall report all of the following to the centralized employee registry within ten days of the hiring or rehiring of an employee:

a. The employer's name, address, and federal identification number.

b. The employee's name, address, social security number, and date of birth.

c. Information regarding availability of employee dependent health care coverage and whether or not the employee is qualified for the coverage.

d. Whether the payroll of the employer is prepared at the address of the employer or at a separate location, and the address of the separate location, if applicable.

2. Employers required to report may report the information required under subsection 1 by any of the following means:

a. By mailing a copy of the employee's Iowa employee's withholding allowance certificate to the registry.

b. By submitting electronic media in a format approved by the unit in advance.

c. By submitting a fax transmission of the employee's Iowa employee's withholding allowance certificate to the registry.

d. By any other means authorized by the unit in advance if the means will result in timely reporting.

3. Until such time as the Iowa employees' withholding allowance certificate is amended to provide for inclusion of all of the information required under subsection 1, submission of the certificate constitutes compliance with this section.

4. If an employer fails to report as required under this section, an action may be brought against the employer by any state agency accessing or administering the registry, or by the attorney general. The action may be brought in district court in the county in which the employer has its principal place of business, or if the employer has no principal place of business, in any county in which an employee is performing labor or service for compensation, or in Polk county to determine noncompliance with this section. A willful failure to provide the information shall be punishable as contempt.

Sec. 6. NEW SECTION. 252G.3A ALTERNATIVE REPORTING REQUIREMENTS – PENALTY.

1. Beginning January 1, 1994, a payor of income to whom section 252G.3 is inapplicable, who engages a contractor on or after January 1, 1994, shall report all of the following to the registry within ten days of hiring or rehiring of a contractor:

a. The name, address, and federal identification number of the payor of income.

b. The contractor's name, address, social security number, and if known, the contractor's date of birth.

2. Payors of income to whom section 252G.3 is inapplicable shall report under this section only when all of the following conditions are met.

a. The contractor is not being engaged for the sole purpose of performing services on the residential property of the payor of income.

b. Payment of income under the contract is reasonably expected to equal or exceed one thousand dollars in any twelve-month period.

c. The contractor will perform labor or services for a minimum period of two months.

3. A payor of income required to report under this section may report the information required under subsection 1 by any written means authorized by the unit which results in timely reporting.

4. Information reported under this section shall be received and maintained as provided in section 252G.2.

5. A payor of income required to report under this section who fails to report is subject to the penalty provided in section 252G.3, subsection 4.

Sec. 7. NEW SECTION. 252G.4 ACCESS TO CENTRALIZED EMPLOYEE REGISTRY.

The records of the centralized employee registry are confidential records pursuant to section 22.7, and may be accessed only by state agencies as provided in this section. When a state agency accesses information in the registry, the agency may use the information to update the agency's own records. Access to and use of the information contained in the registry shall be limited to the following:

1. The unit for administration of the child support enforcement program, including but not limited to activities related to establishment and enforcement of child and medical support obligations through administrative or judicial processes, and other services authorized pursuant to chapter 252B.

2. State agencies which utilize income information for the determination of eligibility or calculation of payments for benefit or entitlement payments.

3. State agencies which utilize income information for the recoupment of debts to the state.

Sec. 8. NEW SECTION. 252G.5 ADMINISTRATION AND COSTS OF THE CENTRALIZED EMPLOYEE REGISTRY.

1. The registry shall maintain the information received from employers for a minimum period of six months.

2. State agencies accessing the centralized registry shall participate in a proportionate cost sharing to defray the administrative costs of the registry. The amount of a state agency's proportionate share shall be established by rule of the department.

DIVISION III
PATERNITY BY AFFIDAVIT

Sec. 9. Section 144.13, Code 1993, is amended to read as follows:

144.13 BIRTH CERTIFICATES.

1. Certificates of births shall be filed as follows:

~~1~~ a. 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 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~~ b. 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 six days after the birth.

~~3~~ c. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

~~a.~~ (1) The physician in attendance at or immediately after the birth.

~~b.~~ (2) Any other person in attendance at or immediately after the birth.

~~c.~~ (3) The father or the mother.

~~d.~~ (4) The person in charge of the premises where the birth occurred.

4 d. In the case of a child born out of wedlock, the certificate shall be filed directly with the state registrar.

e. In the case of a child born out of wedlock, an affidavit of paternity filed pursuant to section 252A.3A shall be filed directly with the state registrar.

2. If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

3. If the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as the father, unless a determination of paternity has been made ~~by a court of competent jurisdiction~~ pursuant to section 252A.3, in which case the name of the father as ~~determined by the court~~ established shall be entered by the department.

4. The division shall make available to the child support recovery unit, upon request, a copy of a child's birth certificate, the social security numbers of the mother and the father, and a copy of the affidavit of paternity if provided pursuant to section 252A.3A.

Sec. 10. Section 144.40, Code 1993, is amended to read as follows:

144.40 PATERNITY OF CHILDREN OUT OF WEDLOCK.

Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents including an affidavit of paternity completed and filed pursuant to section 252A.3A, the state registrar shall amend a certificate of birth to show paternity if paternity is not shown on the birth certificate. Upon written request of the parents, the surname of the child may be changed on the certificate to that of the father. The certificate shall not be marked "amended". ~~A fee established by the department by rule based on average administrative cost shall be collected for each certificate of birth amended to show paternity. Fees collected under this section shall be deposited in the general fund of the state.~~

Sec. 11. Section 252A.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 11A. "State registrar" means state registrar as defined in section 144.1.

Sec. 12. Section 252A.3, subsection 9, Code 1993, is amended to read as follows:

9. The ~~natural~~ parents of a child born out of wedlock shall be severally liable for the support of the child, but the liability of the ~~natural~~ father shall not be enforceable unless ~~the natural father has been adjudicated to be the child's father by a court of competent jurisdiction, or the natural father has acknowledged paternity of the child in open court or by written statement~~ paternity has been legally established. Paternity may be established as follows:

a. By order of a court of competent jurisdiction or by administrative order when authorized by state law.

b. By the statement of the person admitting paternity in court and upon concurrence of the mother. If the mother was married, at the time of birth or conception of the child, to an individual other than the person admitting paternity, the individual to whom the mother was married at the time of birth or conception must deny paternity in order to establish the paternity of the person admitting paternity upon the sole basis of the admission.

c. By the filing of an affidavit of paternity executed on or after July 1, 1993, as provided in section 252A.3A, provided that the mother of the child was unmarried at the time of birth and conception of the child or if the mother was married at the time of birth or conception of the child, a court of competent jurisdiction has determined that the individual to whom the mother was married at that time is not the father of the child.

Sec. 13. NEW SECTION. 252A.3A PATERNITY BY AFFIDAVIT.

1. Upon the birth of a child to a woman who was unmarried at the time of birth and conception of the child, the institution where the birth occurred shall provide the mother and the individual alleged to be the father all of the following:

a. Written information, available from the Iowa department of public health and developed by the child support recovery unit established in section 252B.2, explaining the implications of filing the affidavit, parental rights and responsibilities, and the benefits of establishing paternity.

b. Upon request, an affidavit of paternity form from the Iowa department of public health to be completed by the parties, or instructions regarding the process for obtaining a form from the Iowa department of public health.

An institution is not required to assist in the completion or filing of an affidavit of paternity except as provided under subsection 2.

2. An institution may either voluntarily, or under an agreement with the child support recovery unit, assist the mother and the individual alleged to be the father in completing an affidavit of paternity and submitting a completed affidavit of paternity to the state registrar accompanied by a copy of the birth certificate. A completed affidavit of paternity shall contain or have attached all of the following:

a. The signature of a notary public attesting to the identity of the parties signing the affidavit of paternity.

b. A statement by the mother consenting to the assertion of paternity and the identity of the father and acknowledging that the mother was unmarried at the time of birth and conception of the child.

c. A statement by the individual admitting paternity that the individual is the father of the child.

d. The social security numbers of both persons signing the affidavit.

3. The child support recovery unit may reimburse an institution for the costs of administering the provisions of this section if the institution has entered into a written agreement with the child support recovery unit. Reimbursement shall be based only on the number of affidavits submitted to the state registrar that are completed in compliance with this section and shall be limited to the lesser of actual costs or twenty dollars for each affidavit filed. An institution entering into an agreement for reimbursement shall assist the parents of a child born out of wedlock in completing and submitting an affidavit for paternity upon the request of the parties and within ten days following the birth.

4. The mother and the individual admitting paternity of a child born out of wedlock may directly obtain an affidavit of paternity from the Iowa department of public health or the child support recovery unit and complete and file the affidavit of paternity with the state registrar, without utilizing the services of an institution, provided that all other requirements under this section are met. Upon the request for an affidavit of paternity from the Iowa department of public health or child support recovery unit, the Iowa department of public health or child support recovery unit shall also make available the information provided pursuant to subsection 1.

5. If a court of competent jurisdiction has determined that the husband of the mother at the time of birth or conception is not the father of the child, the mother may utilize the proceedings to establish paternity by affidavit provided in this section with respect to unmarried mothers.

DIVISION IV
ADMINISTRATIVE ESTABLISHMENT OF PATERNITY

Sec. 14. NEW SECTION. 252F.1 DEFINITIONS.

As used in this chapter unless the context otherwise requires:

1. "Administrator" means the administrator of the child support recovery unit of the department of human services or the administrator's designee.

2. "Mother" means a mother of the child for whom paternity is being established.

3. "Paternity is at issue" means any of the following conditions:

a. A child was not born or conceived within marriage.

b. A child was born or conceived within marriage but a court has declared that the child is not the issue of the marriage.

c. Paternity has been established by the filing of an affidavit of paternity and the father is contesting paternity within the statute of limitations period pursuant to section 600B.41, subsection 7.

4. "Paternity test" means and includes any form of blood, tissue, or genetic testing administered to determine the biological father of a child.

5. "Putative father" means a person alleged to be the biological father of a child.

6. "Unit" means the child support recovery unit created in section 252B.2.

Sec. 15. NEW SECTION. 252F.2 JURISDICTION.

In any case in which the unit is providing services pursuant to chapter 252B and paternity is at issue, proceedings may be initiated by the unit pursuant to this chapter for the sole purpose of establishing paternity and any accrued or accruing child support or medical support obligations. Proceedings under this chapter are in addition to other means of establishing paternity or support. Issues in addition to establishment of paternity or support obligations shall not be addressed in proceedings initiated under this chapter.

An action to establish paternity and support under this chapter may be brought within the time limitations set forth in section 614.8.

Sec. 16. NEW SECTION. 252F.3 NOTICE OF ALLEGED PATERNITY AND SUPPORT DEBT – CONFERENCE – REQUEST FOR HEARING.

1. The unit may prepare a notice of alleged paternity and support debt to be served on the putative father if the mother of the child provides a statement to the unit verifying that the putative father is or may be the biological father of the child or children involved. The notice shall be accompanied by a copy of the statement and served on the putative father in accordance with rule of civil procedure 56.1. Service upon the mother shall not constitute valid service upon the putative father. The notice shall include all of the following:

a. The name of the recipient of services under chapter 252B and the name and birth date of the child or children involved.

b. A statement that the putative father has been named as the biological father of the child or children named.

c. A statement that the amount of the putative father's monthly support obligation and the amount of the support debt accrued and accruing will be established in accordance with the guidelines established in section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A.

d. A statement that the putative father has a duty to provide accrued and accruing medical support to the child or children in accordance with chapter 252E.

e. An explanation of the procedures for determining the child support obligation and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21, subsection 4.

f. (1) The right of the putative father to request a conference with the unit to discuss paternity establishment and the amount of support that the putative father is required to pay, within ten days of the date of service or within ten days of the date of mailing of the paternity test results to the putative father if the father denies paternity.

(2) A statement that if a conference is requested, the putative father shall have ten days from the date set for the conference or twenty days from the date of service of the original notice, or ten days from the date of the mailing of paternity test results to the putative father if the putative father no longer denies paternity, whichever is later, to send a written request for a hearing on the issue of support to the unit.

(3) A statement that after the holding of the conference, the administrator may issue a new notice and finding of financial responsibility for child support or medical support, or both, to be sent to the putative father by regular mail addressed to the putative father's last known address.

(4) A statement that if the administrator issues a new notice and finding of financial responsibility for child support or medical support, or both, the putative father shall have ten days

from the date of issuance of the new notice or twenty days from the date of service of the original notice, or ten days from the date of the mailing of paternity test results to the putative father if the putative father no longer denies paternity, whichever is later, to send a written request for a hearing on the issue of support to the unit.

g. A statement that if a conference is not requested, and the putative father objects to the finding of financial responsibility or the amount of child support or medical support, or both, the putative father shall within twenty days of the date of service or within ten days from the date of the mailing of paternity test results to the putative father if the putative father no longer denies paternity, whichever is later, to send a written request for a hearing on the issue of support to the unit.

h. A statement that if a timely written request for a hearing on the issue of support is received by the unit, the putative father shall have the right to a hearing to be held in district court and that if no timely written request is received and paternity is not denied, the administrator may enter an order in accordance with the notice and finding of financial responsibility for child support or medical support, or both.

i. A statement of the rights and responsibilities associated with the establishment of paternity.

j. A statement of the putative father's right to deny paternity, the procedures for denying paternity, and the consequences of the denial.

1A. The time limitations established for the notice provisions under subsection 1 are binding unless otherwise specified in this chapter or waived by the putative father pursuant to section 252F.8.

2. If notice is served on the putative father, the unit shall file a true copy of the notice and the original return of service with the clerk of the district court in the county in which the child or children reside, or, if the action is the result of a request from a foreign jurisdiction of another state to establish paternity of a putative father located in Iowa, in the county in which the putative father resides. All subsequent documents filed or court hearings held related to the action shall be in the district court in the county in which notice was filed pursuant to this subsection. The clerk shall file and docket the action.

3. If the putative father requests a hearing on the issue of support, and if a timely written response setting forth objections and requesting a hearing is received by the unit, a hearing shall be held in district court on the issue of support.

4. If a timely written response and request for hearing is not received by the unit and the putative father does not deny paternity, the administrator may enter an order in accordance with section 252F.4 on the issue of support.

5. a. If the putative father denies paternity, the putative father shall submit, within twenty days of service of the notice under subsection 1, a written denial of paternity to the unit. Upon receipt of a written denial of paternity, the administrator shall enter an ex parte administrative order requiring the mother, child or children, and the putative father to submit to paternity testing. The order shall be filed with the clerk of the district court in the county where the notice was filed.

b. If the putative father has signed an affidavit of paternity pursuant to section 252A.3A within the three-year period prior to the receipt of notice, and the putative father contests paternity, the putative father shall pay all costs of the paternity testing.

c. If a paternity test is required under this section, the administrator shall direct that inherited characteristics, including but not limited to blood types, be analyzed and interpreted, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and report the results to the administrator.

d. The putative father shall be provided one opportunity to reschedule the paternity testing appointment if the testing is rescheduled prior to the date of the originally scheduled appointment.

e. An original copy of the test results shall be sent to the clerk of the district court in the county where the notice was filed, and a copy shall be sent to the administrator and to the putative father.

f. Verified documentation of the chain of custody of the blood specimens is competent evidence to establish the chain of custody.

g. If the expert concludes that the test results show that the putative father is not excluded and that the probability of the putative father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the putative father is the biological father, and the evidence shall be sufficient as a basis for administrative establishment of paternity. A verified expert's report on test results which indicate a statistical probability of paternity is sufficient authenticity of the expert's conclusion.

h. If the paternity test results indicate a probability of paternity of ninety-five percent or greater and the putative father wishes to challenge the presumption of paternity, the putative father shall file a written notice of the challenge with the district court and an application for a hearing by the district court within twenty days of the filing of the expert's report with the clerk of the district court or within ten days after the scheduled date of the conference, whichever occurs later.

(1) The party challenging the presumption of paternity has the burden of proving that the putative father is not the father of the child.

(2) The presumption of paternity may be rebutted only by clear and convincing evidence.

i. If the expert concludes that the test results indicate that the putative father is not excluded and that the probability of the putative father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of paternity. To challenge the test results, a party shall file a written notice of the challenge with the clerk of the district court within twenty days of the filing of the expert's report and shall send a copy of the written notice to any other party. The administrator may then order a second test or certify the case to the district court for resolution.

j. If the paternity test results exclude the putative father as a potential biological father of the child, and additional tests are not requested by either party, the unit shall withdraw its action against the putative father and shall file a notice of the withdrawal with the clerk of the district court.

k. If the results of the test or the expert's analysis are disputed, the administrator, upon the request of a party or upon the unit's own initiative, shall order that an additional test be performed by the same laboratory or an independent laboratory, at the expense of the party requesting additional testing.

Sec. 17. NEW SECTION. 252F.4 ENTRY OF ORDER.

1. If the putative father fails to respond to the initial notice within twenty days after the date of service of the notice or fails to appear at the conference pursuant to section 252F.3 on the scheduled date of the conference, the administrator may enter an order against the putative father, declaring the putative father to be the biological father and assessing the support obligation and accrued and accruing child support pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E against the father.

2. If the putative father fails to appear for a paternity test and fails to request a rescheduling pursuant to section 252F.3, or fails to appear for both the initial and the rescheduled paternity tests, the administrator may enter an order against the putative father declaring the putative father to be the biological father of the child and assessing the support obligation and accrued and accruing child support pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E against the father.

3. If the putative father appears at a conference, the administrator may enter an order against the putative father ten days after the second notice has been sent declaring the putative father to be the biological father of the child and assessing the support obligation and accrued and accruing child support pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E against the father.

3A. If paternity testing was performed and the putative father was not excluded, and the putative father fails to timely challenge paternity testing, the administrator may enter an order

against the putative father declaring the putative father to be the biological father of the child and assessing the support obligation and accrued and accruing child support pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E against the father.

4. The administrator shall establish a support obligation under this section based upon the best information available to the unit and pursuant to section 252B.7A.

5. The order shall contain all of the following:

a. A declaration of paternity.

b. The amount of monthly support to be paid, with direction as to the manner of payment.

c. The amount of accrued support.

d. The name of the custodial parent or caretaker.

e. The name and birth date of the child or children to whom the order applies.

f. A statement that property of the putative father is subject to income withholding, liens, garnishment, tax offset, and other collection actions.

g. The medical support required pursuant to chapter 598 and chapter 252E.

6. If the putative father does not deny paternity but does wish to challenge the issues of child or medical support, the administrator may enter an order establishing paternity and reserving the issues of child or medical support for determination by the district court.

Sec. 18. NEW SECTION. 252F.5 CERTIFICATION TO DISTRICT COURT.

1. Actions initiated under this chapter are not subject to contested case proceedings or further review pursuant to chapter 17A.

2. An action under this chapter may be certified to the district court if a party challenges the administrator's finding of paternity, or the amount of support, or both. Review by the district court shall be an original hearing before the court.

3. In any action brought under this chapter, the action shall not be certified to the district court in a contested paternity action unless all of the following have occurred:

a. Paternity testing has been completed.

b. The results of the paternity test have been sent to the putative father.

c. A written objection to the entry of an order has been received from the putative father.

4. A matter shall be certified to the district court in the county in which the notice was filed pursuant to section 252F.3, subsection 2.

5. The court shall set the matter for hearing and notify the parties of the time of and place for hearing.

6. If the court determines that the putative father is the biological father, the court shall establish the amount of the monthly support payment and the accrued and accruing child support pursuant to the guidelines established under section 598.21, subsection 4, and shall establish medical support pursuant to chapter 252E.

7. If a party fails to appear at the hearing, upon a showing that proper notice has been provided to the party, the court may find the party in default and enter an appropriate order.

Sec. 19. NEW SECTION. 252F.6 FILING WITH THE DISTRICT COURT.

Following issuance of an order by the administrator, the order shall be presented to an appropriate district court judge for review and approval. Unless a defect appears on the face of the order, the district court shall approve the order. Upon approval by the district court judge, the order shall be filed in the district court in the county in which the notice was filed pursuant to section 252F.3, subsection 2. Upon filing, the order has the same force and effect as a district court order.

Sec. 20. NEW SECTION. 252F.7 REPORT TO VITAL STATISTICS.

Upon the filing of an order with the district court pursuant to this chapter, the clerk of the district court shall report the information from the order to the bureau of vital statistics in the manner provided in section 600B.36.

Sec. 21. NEW SECTION. 252F.8 WAIVER OF TIME LIMITATIONS BY PUTATIVE FATHER.

1. A putative father may waive the time limitations established in this chapter.

2. Upon receipt of a signed statement from the putative father waiving the time limitations, the administrator may enter an order establishing paternity and support and the court may approve the order, notwithstanding the expiration of the period of the time limitations.

3. If a putative father waives the time limitations and an order establishing paternity and support is entered under this chapter, the signed statement of the putative father waiving the time limitations shall be filed with the order for support.

Sec. 22. Section 600B.41, subsection 7, paragraph a, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Notwithstanding section 598.21, subsection 8, paragraph "k", the establishment of paternity by court order, including a court order based on an administrative establishment of paternity, or by affidavit may be overcome if all of the following conditions are met:

Sec. 23. Section 600B.41, subsection 7, paragraph a, subparagraph (4), Code 1993, is amended to read as follows:

(4) The action to overcome paternity is filed no later than three years after the ~~entry of an order~~ establishment of paternity.

DIVISION V
ADMINISTRATIVELY INSTITUTED SUSPENSIONS OF SUPPORT

Sec. 24. NEW SECTION. 252B.20 SUSPENSION OF SUPPORT.

1. If the unit is providing child support enforcement services pursuant to chapter 252B, the parents of a dependent child for whom support has been ordered pursuant to chapter 252A, 252C, 252F, 598, 600B, or any other chapter, may jointly request the assistance of the unit in suspending the obligation for support if all of the following conditions exist:

a. The parents have reconciled and are cohabiting, and the child for whom support is ordered is living in the same residence as the parents, or the child is currently residing with the parent who is ordered to pay support.

b. The person entitled to receive support and the child for whom support is ordered are not receiving public assistance pursuant to chapter 239, 249A, or a comparable law of a foreign jurisdiction, unless the person against whom support is ordered is considered to be a member of the same household as the child for the purposes of public assistance eligibility.

c. The parents have signed a notarized affidavit attesting to the conditions under paragraphs "a" and "b", have consented to suspension of the support order, and have submitted the affidavit to the unit.

d. No prior request for suspension has been filed with the unit during the two-year period preceding the request.

e. Any other criteria established by rule of the department.

2. Upon receipt of the application for suspension and properly executed and notarized affidavit, the unit shall review the application and affidavit to determine that the necessary criteria have been met. The unit shall then do one of the following:

a. Deny the request and notify the parents in writing that the application is being denied, providing reasons for the denial and notifying the parents of the right to proceed through private counsel. Denial of the application is not subject to contested case proceedings or further review pursuant to chapter 17A.

b. Approve the request and prepare an order which shall be submitted, along with the affidavit, to a judge of a district court for approval, suspending the accruing support obligation.

3. An order approved by the court for suspension of an accruing support obligation is effective upon the date of filing of the suspension order.

4. An order suspending an accruing support obligation entered by the court pursuant to this section shall be considered a temporary order for the period of six months from the date of filing of the suspension order.

5. During the six-month period the unit may request that the court reinstate the accruing support order if any of the following conditions exist:

a. Upon application to the unit by either parent or other person who has physical custody of the child.

b. Upon the receipt of public assistance benefits, pursuant to chapter 239, 249A, or a comparable law of a foreign jurisdiction, by the person entitled to receive support and the child on whose behalf support is paid, provided that the person owing the support is not considered to be a member of the same household as the child for the purposes of public assistance eligibility.

6. Upon filing of an application for reinstatement, service of the application shall be made either in person or by first class mail upon both parents. Within ten days following the date of service, the parents may file a written objection with the clerk of the district court to the entry of an order for reinstatement.

a. If no objection is filed, the court may enter an order reinstating the accruing support obligation without additional notice.

b. If an objection is filed, the clerk of court shall set the matter for hearing and send notice of the hearing to both parents and the unit.

7. The reinstatement is effective as follows:

a. For reinstatements initiated under subsection 5, paragraph "a", the date the notices were served on both parents pursuant to subsection 6.

b. For reinstatements initiated under subsection 5, paragraph "b", the date the child began receiving public assistance benefits during the suspension of the obligation.

c. Support which became due during the period of suspension but prior to the reinstatement is waived and not due and owing unless the parties requested and agreed to the suspension under false pretenses.

8. If the order suspending a support obligation has been on file with the court for a period exceeding six months, the order becomes final by operation of law and terminates the support obligation, and thereafter, a party seeking to establish a support obligation against either party shall bring a new action for support as provided by law.

9. This section shall not limit the rights of the parents or the unit to proceed by other means to suspend, terminate, modify, reinstate, or establish support.

10. This section does not provide for the suspension, waiver, satisfaction, or retroactive modification of support obligations which accrued prior to the entry of an order suspending enforcement and collection of support pursuant to this section.

11. Nothing in this section shall prohibit or limit the unit or a party entitled to receive support from enforcing and collecting any unpaid support that accrued prior to the suspension of the accruing obligation.

DIVISION VI
CONTEMPT OF COURT

Sec. 25. Section 252B.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Obligor" means the person legally responsible for the support of a child as defined in section 598.1 under a support order issued in this state or a foreign jurisdiction.

Sec. 26. NEW SECTION. 252B.21 ADMINISTRATIVE SEEK EMPLOYMENT ORDERS.

1. For any support order being enforced by the unit, the administrator may enter an ex parte order requiring the obligor to seek employment if employment of the obligor cannot be verified and if the obligor has failed to make support payments. Advance notice is not required prior to entering the ex parte order. The unit shall file a copy of the order with the clerk of the district court.

2. The order to seek employment shall contain directives, including all of the following:

a. That the obligor seek employment within a determinate amount of time.

b. That the obligor file with the unit on a weekly basis a report of at least five new attempts to find employment or of having found employment. The report shall include the names,

addresses, and the telephone numbers of any employers or businesses with whom the obligor attempted to seek employment and the name of the individual contact to whom the obligor made application for employment or to whom an inquiry was directed.

c. That failure to comply with the notice is evidence of a willful failure to pay support under section 598.23A.

d. That the obligor shall provide the child support recovery unit with verification of any reason for noncompliance with the order.

e. The duration of the order, not to exceed three months.

3. The department may establish additional criteria or requirements relating to seek employment orders by rule as necessary to implement this section.

Sec. 27. Section 598.23A, subsection 1, Code 1993, is amended to read as follows:

1. If a person against whom an order or decree for support has been entered pursuant to this chapter or chapter 234, 252A, 252C, 252F, 600B, 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. Failure to comply with a seek employment order entered pursuant to section 252B.21 is evidence of willful failure to pay support.

Sec. 28. Section 598.23A, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. If a person is cited for contempt, the court may do either of the following:

a. 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. 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 payments become due.

b. (1) Require the performance of community service work of up to twenty hours per week for six weeks for each finding of contempt. The contemnor may, at any time during the six-week period, apply to the court to be released from the community service work requirement under any of the following conditions:

(a) The contemnor provides proof to the court that the contemnor is gainfully employed and submits to an order for income withholding pursuant to chapter 252D or to a court-ordered wage assignment.

(b) The contemnor provides proof of payment of an amount equal to at least six months' child support. The payment does not relieve the contemnor's obligation for arrearages or future payments.

(c) The contemnor provides proof to the court that, subsequent to entry of the order, the contemnor's circumstances have so changed that the contemnor is no longer able to fulfill the terms of the community service order.

(2) The contemnor shall keep a record of and provide the following information to the court at the court's request, or to the child support recovery unit established pursuant to chapter 252B, at the unit's request, when the unit is providing enforcement services pursuant to chapter 252B:

(a) The duties performed as community service during each week that the contemnor is subject to the community service requirements.

(b) The number of hours of community service performed during each week that the contemnor is subject to the community service requirements.

(c) The name, address, and telephone number of the person supervising or arranging for the performance of the community service.

(3) The performance of community service does not relieve the contemnor of any unpaid accrued or accruing support obligation.

Sec. 29. Section 598.23A, subsection 3, Code 1993, is amended by striking the subsection.

DIVISION VII
CHILD SUPPORT REFEREE AUTHORIZATION

Sec. 30. NEW SECTION. 602.6608 CHILD SUPPORT REFEREE.

1. The chief judge may appoint and may remove for cause with due process a referee to preside over child support proceedings.

2. Qualifications for a referee appointed under this section include, at a minimum, all of the following:

a. The referee shall be an attorney currently licensed to practice law in the state.

b. The referee shall have at least five years of experience in the practice of law.

c. The referee shall have at least two years of experience in the practice of family law, including experience in the area of child support, in the state of Iowa.

3. Duties of the referee are limited to presiding over child and medical support proceedings which are delegated to the referee by the chief judge or jointly by the chief judges of the affected judicial districts if the referee is authorized to preside over proceedings in more than one judicial district.

4. The compensation of the referee shall be established by the court.

DIVISION VIII
RELEASE OF INFORMATION

Sec. 31. Section 252B.9, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to confidentiality of records maintained by the department, the payment records of the collection services center maintained under section 252B.13A are public records only as follows:

a. Payment records of the collection services center which are maintained pursuant to chapter 598 are public records and may be released upon request.

b. Except as otherwise provided in subsection 1, the department shall not release details related to payment records or provide alternative formats for release of the information, with the following additional exceptions:

(1) The unit or collection services center may provide additional detail or present the information in an alternative format to an individual or to the individual's legal representative if the individual owes or is owed a support obligation, to an agency assigned the obligation as the result of receipt by a party of public assistance, to an agency charged with enforcing child support pursuant to Title IV-D of the federal Social Security Act, or to the court.

(2) For support orders entered in Iowa which are being enforced by the unit, the unit may compile and make available for publication a listing of cases in which no payment has been credited to an accrued or accruing support obligation during a previous three-month period. Each case on the list shall be identified only by the name of the support obligor, the support obligor's court order docket or case number, the county in which the obligor's support order is filed, and the collection services center case numbers. The department shall determine dates for the release of information, the specific format of the information released, and the three-month period used as a basis for identifying cases. The department may not release the information more than twice annually. In compiling the listing of cases, no prior public notice to the obligor is required, but the unit may send notice annually by first-class mail to the last known address of any individual owing a support obligation which is being enforced by the unit. The notice shall inform the individual of the provisions of this subparagraph. Actions taken pursuant to this subparagraph are not subject to review under chapter 17A, and the lack of receipt of a notice does not prevent the unit from proceeding in implementing this subparagraph.

(3) The provisions of subparagraph (2) may be applied to support obligations entered in another state, at the request of an initiating state if the initiating state has demonstrated that the provisions of subparagraph (2) are not in conflict with the laws of the state where the support obligation is entered and the unit is enforcing the support obligation. For the purposes

of this subparagraph, "initiating state" means any child support enforcement agency operating under the provisions of Title IV-D of the federal Social Security Act.

c. The attorney general may utilize information of the unit to secure, modify, or enforce a support obligation of an individual, unless otherwise prohibited by federal law.

d. This subsection shall not permit or require the release of information contained in the case records of the unit, except to the extent provided in this section.

Sec. 32. Section 252B.9, subsection 2, Code 1993, is amended to read as follows:

2. Except as otherwise provided in subsection 1, paragraph "b", and in subsection 1A, information recorded by the department pursuant to this section shall be available only to the unit, attorneys prosecuting a case in which the unit may participate according to sections 252B.5 and 252B.6, courts having jurisdiction in support or abandonment proceedings, and agencies in other states charged with support collection and paternity determination responsibilities as determined by the rules of the department and the provisions of Title IV of the federal Social Security Act. However, information relating to the location of an absent parent shall be made available, pursuant to federal regulations, to a resident parent, legal guardian, attorney, or agent of a child who is not receiving assistance under Title IV-A of the federal Social Security Act. Unless otherwise prohibited by federal statute or regulation, the child support recovery unit shall release information relating to an absent parent to another unit of the department pursuant to a written request for the information approved by the director.

DIVISION IX
SELF-EMPLOYED OBLIGORS

Sec. 33. Section 252B.5, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. a. Assistance, in consultation with the department of revenue and finance, in identifying and taking action against self-employed individuals as identified by the following conditions:

(1) The individual owes support pursuant to a court or administrative order being enforced by the unit and is delinquent in an amount equal to or greater than the support obligation amount assessed for one month.

(2) The individual has filed a state income tax return in the preceding twelve months.

(3) The individual has no reported tax withholding amount on the most recent state income tax return.

(4) The individual has failed to enter into or comply with a formalized repayment plan with the unit.

(5) The individual has failed to make either all current support payments in accordance with the court or administrative order or to make payments against any delinquency in each of the preceding twelve months.

b. Notwithstanding section 252B.9, the unit may forward information to the department of revenue and finance as necessary to implement this subsection, including but not limited to both of the following:

(1) The name and social security number of the individual.

(2) Support obligation information in the specific case, including the amount of the delinquency.

Sec. 34. Section 421.17, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 21A. To cooperate with the child support recovery unit created in chapter 252B to establish and maintain a process to implement the provisions of section 252B.5, subsection 8. The department of revenue and finance shall forward to individuals meeting the criteria under section 252B.5, subsection 8, paragraph "a", a notice by first-class mail that the individual is obligated to file a state estimated tax form and to remit a separate child support payment.

a. Individuals notified shall submit a state estimated tax form on a quarterly basis.

b. The individual shall pay monthly, the lesser of the total delinquency or one hundred fifty percent of the current or most recent monthly obligation.

c. The individual shall remit the payment to the department of revenue and finance separate from any tax liability payments, identify the payment as a support payment, and make the payment payable to the collection services center. The department shall forward all payments received pursuant to this section to the collection services center established pursuant to chapter 252B, for processing and disbursement. The department of revenue and finance may establish by rule a process for the child support recovery unit or collection services center to directly receive the payments.

d. The notice shall provide that, as an alternative to the provisions of paragraph "b", the individual may contact the child support recovery unit to formalize a repayment plan and obtain an exemption from the quarterly payment requirement or to contest the balance due listed in the notice when payments are made pursuant to the plan.

e. The department of revenue and finance, in cooperation with the child support recovery unit, may adopt rules, if necessary, to implement this subsection.

NEW SUBSECTION. 21B. To provide information contained in state individual tax returns to the child support recovery unit for the purposes of establishment or enforcement of support obligations. The department of revenue and finance and child support recovery unit may exchange information in a manual or automated fashion. The department of revenue and finance, in cooperation with the child support recovery unit, may adopt rules, if necessary, to implement this subsection.

DIVISION X
TECHNICAL AND CONFORMING PROVISIONS

Sec. 35. Section 252A.6, subsection 15, Code 1993, is amended to read as follows:

15. Any order of support issued by a court of the state acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both. This subsection also applies to orders entered following an administrative process including, but not limited to, the administrative processes provided pursuant to chapters 252C and 252F.

Sec. 36. Section 252B.3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Upon receipt by the department of an application for public assistance on behalf of a child and determination by the department that the child has been abandoned by its parents or that the child and one parent have been abandoned by the other parent or that the parent or other person responsible for the care, support or maintenance of the child has failed or neglected to give proper care or support to the child, the department shall take appropriate action under the provisions of this chapter or under other appropriate statutes of this state including but not limited to chapters 239, 252A, 252F, 598, and 600B, to ensure that the parent or other person responsible for the support of the child fulfills the support obligation.

Sec. 37. Section 252B.4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

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, 252F, 598, and 600B 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.

Sec. 38. Section 252B.5, subsections 2 and 3, Code 1993, are amended to read as follows:

2. Aid in establishing paternity and securing a court or administrative order for support pursuant to chapter 252A, 252F, or 600B.

3. Aid in enforcing through court or administrative proceedings an existing court order for support issued pursuant to chapter 252A, 252C, 252F, 598, or 600B, or any other chapter under which child or medical support is granted.

Sec. 39. Section 252B.13A, subsection 1, Code 1993, is amended to read as follows:

~~1.~~ The department shall establish within the unit a collection services center for the receipt and disbursement of support payments as defined in section 598.1 as required ~~pursuant to an order~~ for ~~which the unit is providing enforcement services under this chapter~~ orders by section 252B.14. For purposes of this section, support payments do not include attorney fees, ~~or~~ court costs, or property settlements.

Sec. 40. Section 252B.13A, subsections 2 and 3, Code 1993, are amended by striking the subsections.

Sec. 41. Section 252B.14, Code 1993, is amended to read as follows:

252B.14 SUPPORT PAYMENTS — COLLECTION SERVICES CENTER — CLERK OF THE DISTRICT COURT.

~~All support payments required pursuant to orders entered under this chapter and chapter 234, 252A, 252C, 598, 600B, or any other chapter shall be directed and processed as follows:~~

1. For the purposes of this section, "support order" includes any order entered pursuant to chapter 234, 252A, 252C, 598, 600B, or any other support chapter or proceeding which establishes support payments as defined in section 598.1.

~~1~~ 2. ~~If~~ For support orders being enforced by the child support recovery unit ~~is providing enforcement services for a support order~~, support payments made pursuant to the order shall be directed to and ~~processed as follows:~~ disbursed by the collection services center.

~~a. Payments made through income withholding, wage assignment, unemployment insurance offset, or tax offset shall be directed to and disbursed by the collection services center.~~

~~b. Payments made through electronic transfer of funds, including but not limited to use of an automated teller machine, a telephone initiated bank account withdrawal, or an automatic bank account withdrawal shall be directed to and disbursed by the collection services center.~~

~~c. Payments made through any other method shall be directed to the clerk of the district court in the county in which the order for support is filed and shall be disbursed by the collection services center.~~

~~2~~ 3. ~~If the child support recovery unit is not providing enforcement services for a support order~~ For a support order as to which subsection 2 does not apply, support payments made pursuant to the order shall be directed to and disbursed by the clerk of the district court in the county in which the order for support is filed.

~~3~~ 4. Payments to persons other than the clerk of the district court or the collection services center do not satisfy the support obligations created by a support order or judgment, except as provided for ~~trusts and social security income~~ in ~~section~~ sections ~~252D.1,~~ 598.22, ~~or 598.23, or for tax refunds or rebates in section 602.8102, subsection 47,~~ and ~~except as provided in section~~ 598.22A.

Sec. 42. Section 252B.15, subsections 1, 3, and 4, Code 1993, are amended by striking the subsections.

Sec. 43. Section 252B.16, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Once the responsibility for receiving and disbursing support payments has been transferred from a clerk of the district court to the collection services center, the responsibility shall remain with the collection services center even if the child support recovery unit is no longer providing enforcement services, unless redirected by court order.

Sec. 44. Section 252C.1, subsection 5, Code 1993, is amended to read as follows:

5. "Dependent child" means a person who meets the eligibility criteria established in chapter 234 or 239 and whose support is required by chapter 234, 239, 252A, 252F, 598, or 600B.

Sec. 45. Section 252D.1, subsection 2, Code 1993, is amended to read as follows:

2. If support payments ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 598, 600B, 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 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. 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. 46. Section 252E.1, subsection 1, Code 1993, 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, 252F, 598, 600B or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction.

Sec. 47. Section 252H.2, unnumbered paragraph 1, if enacted by 1993 Iowa Acts, Senate File 349,* section 25, is amended to read as follows:

252H.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires "administrator", "caretaker", "court order", "department", "dependent child", "medical support", ~~"public assistance"~~, and "responsible person", mean the same as defined in section 252C.1.

Sec. 48. Section 598.21, subsection 4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The supreme court shall maintain uniform child support guidelines and criteria and 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. It is the intent of the general assembly that, to the extent possible within the requirements of federal law, the court and the child support recovery unit consider the individual facts of each judgment or case in the application of the guidelines and determine the support obligation, accordingly. It is also the intent of the general assembly that in the supreme court's review of the guidelines, the supreme court shall do both of the following: emphasize the ability of a court to apply the guidelines in a just and appropriate manner based upon the individual facts of a judgment or case; and in determining monthly child support payments, consider other children for whom either parent is legally responsible for support and other child support obligations actually paid by either party pursuant to a court or administrative order.

Sec. 49. Section 598.21, subsection 8, unnumbered paragraph 3, Code 1993, is amended to read as follows:

Judgments for child support or child support awards entered pursuant to this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code which are subject to a modification proceeding may be retroactively modified only from the date the notice of the pending petition for modification is served on the opposing party.

*Chapter 78 herein

Sec. 50. Section 598.22, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the assignment of income shall require the payment of such sums to the alternate payee in accordance with the federal Act.

Sec. 51. Section 598.22A, subsection 3, Code 1993, is amended to read as follows:

3. The court shall not enter an order for satisfaction of payments not made through the clerk of the district court or collection services center if those payments have been assigned as a result of public funds expended pursuant to chapter 234, 239, or 249A, or similar statutes in other states and the support payments accrued during the months in which public funds were expended. If the support order did not direct payments to a clerk of the district court or the collection services center, and the support payments in question accrued during the months in which public funds were not expended, however, the court may enter an order for satisfaction of payments not made through the clerk of the district court or the collection services center if documentation of the financial instrument used in the payment of support is presented to the court and the parties to the order submit a written affidavit confirming that the financial instrument was used as payment for support.

Sec. 52. Section 602.8102, subsection 47, Code 1993, is amended to read as follows:

47. Record support payments made pursuant to an order entered under chapter 252A, 252F, 598, or 600B, or under a comparable statute of a foreign jurisdiction and through setoff of a state or federal income tax refund or rebate, as if the payments were received and disbursed by the clerk; forward support payments received under section 252A.6 to the department of human services and furnish copies of orders and decrees awarding support to parties receiving welfare assistance as provided in section 252A.13.

Sec. 53. Section 642.23, Code 1993, is amended to read as follows:

642.23 SUPPORT DISBURSEMENTS BY THE CLERK.

Notwithstanding the seventy-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within ~~ten~~ two working days of ~~deposit to~~ the filing of an order condemning funds as follows:

a. To the person entitled to the support payments when the clerk of the district court is the official entity responsible for the receipt and disbursement of support payments pursuant to section 252B.14.

b. To the collection services center when the collection services center is the official entity responsible for the receipt and disbursement of support payments pursuant to section 252B.14.

Sec. 54. Section 252C.9, Code 1993, is repealed.

Sec. 55. REPEAL. 1990 Iowa Acts, chapter 1224, section 1, as amended by 1991 Iowa Acts, chapter 62, section 1, and 1992 Iowa Acts, chapter 1028, section 1, is repealed.

Sec. 56. INTENT – APPOINTMENT OF REFEREE. It is the intent of the general assembly that the costs associated with the appointment of a referee pursuant to section 602.6608 be defrayed using current funding.

Sec. 57. INTENT – RELEASE OF RECORDS – EFFECTIVE DATE. It is the intent of the general assembly that the child support recovery unit request review of division VIII of this Act by the United States department of health and human services and obtain federal approval prior to implementation of these sections. Division VIII of this Act is effective upon receipt of approval by the federal government. If approval is not received and if implementation of the sections would place the state at risk of loss of federal funding, the division shall not be implemented.

Sec. 58. EFFECTIVE DATE. Sections 39 through 43 and sections 53 and 55 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 59. INTENT – VISITATION RIGHTS. The judicial department shall review the issue of compliance with visitation rights awarded pursuant to section 598.41 and shall make recommendations to the committee on judiciary of the senate and the committee on judiciary and law enforcement of the house of representatives by January 15, 1994, regarding improvements in enforcement of and compliance with the visitation rights awarded under a child custody order.

Approved May 3, 1993

CHAPTER 80

SMALL GROUP HEALTH BENEFIT PLANS AND AVAILABILITY OF COVERAGE

S.F. 362

AN ACT relating to small group rating practices and the availability of health insurance coverage.

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

Section 1. Section 513B.1, Code 1993, is amended to read as follows:

513B.1 TITLE – PURPOSE.

1. This ~~chapter~~ subchapter shall be known and may be cited as the "Model Small Group Rating Law".

2. The intent of this ~~chapter~~ subchapter is to promote the availability of health insurance coverage to small employers, to prevent abusive rating practices, to require disclosure of rating practices to purchasers, to establish rules for continuity of coverage for employers and covered individuals, and to improve the efficiency and fairness of the small group health insurance marketplace.

Sec. 2. Section 513B.2, Code 1993, is amended by adding the following new unnumbered paragraph before subsection 1:

NEW UNNUMBERED PARAGRAPH. As used in this subchapter, unless the context otherwise requires:

Sec. 3. Section 513B.2, subsections 10 and 16, Code 1993, are amended to read as follows:

10. a. "Health benefit plan" or "plan" means any hospital or medical expense incurred policy or certificate, major medical expense insurance, hospital or medical service plan contract, or health maintenance organization subscriber contract.

b. "Health benefit plan" does not include accident-only, credit, dental, or disability income insurance, coverage issued as a supplement to liability insurance, workers' compensation or similar insurance, or automobile medical-payment insurance.

c. "Health benefit plan" also does not include policies or certificates of specified disease, hospital confinement indemnity, or limited benefit health insurance if the carrier offering such policies or certificates complies with all of the following:

(1) The carrier files on or before March 1 of each year a certification with the commissioner that contains the following statement and information:

(a) A statement from the carrier certifying that policies or certificates described in this paragraph "c" are being offered and marketed as supplemental health insurance and not as a substitute for hospital or medical expense insurance or major medical expense insurance.

(b) A summary description of each policy or certificate described in this paragraph "c" including the average annual premium rates or range of premium rates in cases where premiums vary by age, gender, or other factors, which are to be charged for such policies and certificates in this state.

(2) If a policy or certificate described in this paragraph "c" is offered for the first time in this state on or after July 1, 1993, the carrier files with the commissioner the information and statement required in subparagraph (1) at least thirty days prior to the date such policy or certificate is issued or delivered in this state.

16. "Small employer" means a person actively engaged in business who, on at least fifty percent of the employer's working days during the preceding year, employed ~~no more than~~ not less than two and not more than twenty-five full-time equivalent eligible employees. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of state taxation are considered one employer.

Sec. 4. Section 513B.4, subsection 3, Code 1993, is amended to read as follows:

3. For purposes of this section, a health benefit plan that ~~utilizes~~ contains a restricted ~~provider~~ network provision shall not be considered similar coverage to a health benefit plan that does not ~~utilize~~ contain such a ~~network~~ provision, ~~provided that utilization of the restricted provider~~ if the restriction of benefits to network providers results in substantial differences in claims costs.

Sec. 5. NEW SECTION. 513B.4A EXEMPTION FROM PREMIUM RATE RESTRICTIONS.

A Taft-Hartley trust or a carrier with the written authorization of such a trust, may make a written request to the commissioner for an exemption from the application of any provisions of section 513B.4 with respect to a health benefit plan provided to such a trust. The commissioner may grant an exemption if the commissioner finds that application of section 513B.4 with respect to the trust would have a substantial adverse effect on the participants and beneficiaries of such trust, and would require significant modifications to one or more collective bargaining arrangements under which the trust is established or maintained. An exemption granted under this paragraph shall not apply to an individual if the individual participates in a trust as an associate member of an employee organization.

Sec. 6. Section 513B.5, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 3. A small employer carrier may replace an existing health benefit plan with a new health benefit plan. The premium rate for the new plan shall be developed pursuant to section 513B.4 and must reflect the claim experience of the previously existing plan.

NEW SUBSECTION. 4. A small employer carrier shall not discontinue the sale or active marketing of a particular class of plan or plans, unless the carrier withdraws from all marketing in this state directed at the small employer or has obtained specific approval from the commissioner to do so. The commissioner may approve the discontinuance upon a demonstrated finding that the continued sale or active marketing of a particular class of plan or plans will endanger the solvency of the carrier or does not advance the purposes of this section.

Sec. 7. Section 513B.10, subsection 1, Code 1993, is amended to read as follows:

1. a. ~~A~~ Except as provided in section 513B.5, subsection 4, 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~~ a small employer that applies for ~~either~~ a plan if the small employer is eligible for the plan pursuant to those provisions set forth in section 514H.2, subsection 1, 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 shall issue a standard health benefit plan to a small employer that applies for the plan and agrees to make the required premium payments and satisfy the other reasonable provisions of the health benefit plan not inconsistent with this chapter.

(3) A small employer carrier establishing more than one class of business shall ~~maintain and issue to eligible small employers~~, in each class of business established, maintain and offer at least one basic health benefit plan ~~and at least one standard health benefit plan in each class of business established~~ to a small employer, if the employer is determined to be eligible for the basic health benefit plan pursuant to the provisions set forth in section 514H.2, subsection 1, and at least one standard health benefit plan. 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, as defined in section 513B.2, 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~~ 4) ~~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~~ upon a date as determined by the commissioner following the commissioner's approval of the basic health benefit plan and the standard health benefit plan.

Sec. 8. Section 513B.10, subsection 3, paragraph b, Code 1993, is amended to read as follows:

b. ~~The plan~~ A small employer carrier shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services in a health benefit plan 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~~ more than ~~thirty~~ ninety days prior to the effective date of the new coverage. The period of continuous coverage shall not include any waiting period prior to the effective date of the new coverage applied by the employer or the carrier. This paragraph does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan.

Sec. 9. Section 513B.10, subsection 3, paragraph e, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) A small employer carrier may modify a small employer's health benefit plan, other than a basic or standard health benefit plan, provided the modifications apply to all eligible employees and dependents of that small employer.

Sec. 10. Section 513B.11, subsection 1, paragraphs a and c, Code 1993, are amended to read as follows:

a. ~~A~~ Upon the approval of a plan of operation by the commissioner under section 513B.13, subsection 4, 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. The notification shall be made as deemed appropriate by the commissioner. A small employer carrier seeking to operate as a risk-assuming carrier shall make an application pursuant to section 513B.12.

c. The commissioner shall establish an application process for small employer carriers seeking to change their status pursuant to this subsection. If a small employer carrier has been acquired by another such carrier, the commissioner may waive or modify the time periods established in paragraph "b".

Sec. 11. Section 513B.13, subsection 3, paragraph b, Code 1993, is amended to read as follows:

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.

Sec. 12. Section 513B.13, subsection 6, Code 1993, is amended to read as follows:

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. Establish a methodology for applying the dollar thresholds contained in this section for carriers that pay or reimburse health care providers through capitation or a salary.

f. Provide for any additional matters necessary to implement and administer the program.

Sec. 13. Section 513B.16, Code 1993, is amended to read as follows:

513B.16 APPLICABILITY OF CERTAIN STATE LAWS.

The provisions of subchapter II of this chapter ~~514H~~ shall not apply to basic health benefit plans and standard health benefit plans as provided for in subchapter I of this chapter, except for section ~~514H.8~~ 513B.39.

Sec. 14. Section 513B.17, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The commissioner may, with the concurrence of the board of the Iowa small employer health reinsurance program established in section 513B.13, extend the applicability of the provisions of this chapter to employers employing up to fifty full-time equivalent employees upon a finding that the market for health insurance coverage for employer groups employing between twenty-five and fifty employees is constricted and not competitive, or upon a finding that the purpose of this chapter will be furthered by such extension. The extension of the applicability of this chapter may exclude section 513B.13 relating to reinsurance. Upon the extension of the applicability to employers employing up to fifty full-time equivalent employees the definition of "small employer" is deemed to include employers of up to fifty full-time equivalent employees.

Sec. 15. NEW SECTION. 513B.17A RESTORATION OF TERMINATED COVERAGE.

The commissioner may adopt rules to require small employer carriers, as a condition of transacting business with small employers in this state after July 1, 1993, to reissue a health benefit plan to any small employer whose health benefit plan is terminated or not renewed by a carrier after January 1, 1993, unless the carrier's termination is pursuant to section 513B.5. The commissioner may prescribe such terms for the reissuance of coverage as the commissioner finds are reasonable and necessary to provide continuity of coverage to such employers.

Sec. 16. Section 514H.1, unnumbered paragraph 1, Code 1993, is amended to read as follows:
As used in this ~~chapter~~ subchapter, unless the context otherwise requires:

Sec. 17. Section 514H.9, Code 1993, is amended to read as follows:
514H.9 PRESUMED ALLOWANCE OF COST-CONTAINMENT PROCEDURES.
A cost-containment restriction otherwise imposed by state law does not apply to a basic benefit coverage policy or subscription contract unless the commissioner finds after actuarial review that the restricted cost-containment measure is ~~not~~ cost-effective, and its exclusion is not in the best interests of affordable health care coverage.

Sec. 18. Section 514H.12, subsection 2, paragraph b, Code 1993, is amended to read as follows:
b. The employer, ~~employs twenty-five or fewer~~ on at least fifty percent of the employer's working days during the preceding year employed not less than two and not more than twenty-five full-time equivalent employees.

Sec. 19. EMERGENCY RULES. Pursuant to section 11* of this Act, the commissioner of insurance shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. 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. 20. CODE EDITOR TRANSFERS.
1. The Code editor shall transfer sections 514H.1 through 514H.12 to be a new subchapter II of chapter 513B comprising new sections 513B.31 through 513B.43.
2. The Code editor shall designate sections 513B.1 through 513B.29 as new subchapter I.
3. The Code editor shall correct all internal citations and references consistent with the transfer of the Code sections as provided in this section.

Approved May 3, 1993

CHAPTER 81

STRUCTURED FINES AND CIVIL PENALTIES – PILOT PROGRAM
S.F. 372

AN ACT relating to the structured fines pilot program, establishing a civil penalty and surcharge, providing for the distribution of fines, and providing an effective date.

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

Section 1. 1992 Iowa Acts, chapter 1202, section 1, unnumbered paragraph 2, is amended to read as follows:
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~~ 1995.

Sec. 2. 1992 Iowa Acts, chapter 1202, section 2, is amended to read as follows:
SEC. 2. PAYMENT IN INSTALLMENTS OR ON A FIXED FUTURE DATE – INSTALLMENT FEE AND INTEREST – STRUCTURED CIVIL PENALTY.
1. If the district court orders a structured fine, structured civil penalty, or structured civil penalty surcharge imposed pursuant to this chapter ~~909~~, the criminal penalty surcharge for

*Section 15 probably intended

a structured fine imposed pursuant to chapter 911, indigent defense fees assessed as restitution pursuant to chapter 910 for a case in which a structured fine or structured civil penalty was imposed, or court costs assessed pursuant to chapter 602 for a case in which a structured fine or structured civil penalty was imposed, to be paid in installments or at a fixed date in the future, the court shall do all of the following:

~~1~~ a. Impose a time payment fee in the amount of ten dollars.

~~2~~ b. Impose interest charges on the unsatisfied judgment from the date of sentencing at the rate provided in section 535.3 for court judgments.

2. Notwithstanding any other provision of law to the contrary, when a deferred judgment or deferred sentence is entered by the court pursuant to chapter 907, the court may impose a structured civil penalty that is calculated in the same manner as a structured fine. The structured civil penalty shall be subject to a structured civil penalty surcharge equal to the criminal penalty surcharge under section 911.2. The structured civil penalty shall be disbursed in the manner provided for in section 4, subsection 2, of this Act and the structured civil penalty surcharge shall be disbursed in the manner provided for in section 4, subsection 2, of this Act.

Sec. 3. 1992 Iowa Acts, chapter 1202, section 3, is amended to read as follows:

SEC. 3. NO MINIMUM FINE. Notwithstanding any other provisions of law, a ~~criminal~~ structured fine imposed pursuant to 1992 Iowa Acts, chapter 1202 and this Act in a county participating in the structured fines pilot program shall not be required to be imposed in any minimum amount.

Sec. 4. 1992 Iowa Acts, chapter 1202, section 4, is amended to read as follows:

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 collected 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~~ a structured fines pilot program in the county. Upon payment of interest charges, the clerk of the district court shall remit all such charges collected 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~~ law, the clerk of the district court for a county participating in ~~the~~ a structured fines pilot program shall ~~annually~~ remit ~~ten~~ by the fifteenth day of the month following payment fifteen percent ~~of the first five hundred thousand dollars in~~ of all structured fines, criminal penalty surcharges collected on structured fines, structured civil penalties, structured civil penalty surcharges, indigent defense fees, and 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~~ collected in cases where a structured fine or structured civil penalty was imposed, 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 and the remaining eighty-five percent to the treasurer of state for deposit in the general fund of the state.

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

Approved May 3, 1993

CHAPTER 82

COMMUNITY COLLEGES — APPROVAL AND ACCREDITATION AND OTHER MATTERS

S.F. 376

AN ACT relating to community college athletic programs, community college approval and accreditation standards, repealing provisions for certain studies related to community colleges, and providing for other related matters.

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

Section 1. Section 256.7, subsection 18, Code 1993, is amended by striking the subsection.

Sec. 2. Section 260C.22B, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Adopt the following interim annual approval process, which shall be in effect for community colleges until the implementation of section 260C.47.

a. For purposes of this section, "approval standards" shall include standards for administration, qualifications and assignment of personnel, curriculum, facilities and sites, requirements for awarding of diplomas and other evidence of educational achievement, guidance and counseling, support services for students with special needs, instruction, instructional materials, maintenance, and library.

b. The department of education shall supervise and evaluate the educational program in the several community colleges of the state for the purpose of the improvement and approval of such institutions.

c. The director of the department of education shall make recommendations and suggestions in writing to each community college if the department determines, after due investigation, that deficiencies exist.

d. The director of the department of education shall maintain a list of approved community colleges, and the director shall remove from the approved list for cause, after due investigation and notice, a community college which fails to comply with the approval standards. A community college which is removed from the approved list pursuant to this section is ineligible to receive state financial aid during the period of removal. The director shall allow a reasonable period of time, which shall be at least one year, for compliance with approval standards if a community college is making a good faith effort and substantial progress toward full compliance or if failure to comply is due to factors beyond the control of the board of directors of the merged area operating the institution. In allowing time for compliance, the director shall follow consistent policies, taking into account the circumstances of each case. The reasonable period of time for compliance may be, but need not be, given prior to the one-year notice requirement that is provided in this section.

e. The director of the department of education shall give a community college which is to be removed from the approved list at least one year's notice. The notice shall be given by registered or certified mail addressed to the superintendent of the community college and shall specify the reasons for removal. The notice shall also be sent by ordinary mail to each member of the board of directors of the community college, and to the news media which serve the merged area where the school is located; but any good faith error or failure to comply with this sentence shall not affect the validity of any action by the director. If, during the year, the community college remedies the reasons for removal and satisfies the director that it will thereafter comply with the laws and approval standards, the director shall continue the community college on the approved list and shall transmit to the community college notice of the action by registered or certified mail.

f. At any time during the year after notice is given, the board of directors of the community college may request a public hearing before the director of the department of education, by mailing a written request to the director by registered or certified mail. The director shall promptly set a time and place for the public hearing, which shall be either in Des Moines or in the affected merged area. At least thirty days' notice of the time and place of the hearing

shall be given by registered or certified mail addressed to the superintendent of the community college. At least ten days before the hearing, notice of the time and place of the hearing and the reasons for removal shall also be published by the department in a newspaper of general circulation in the merged area where the community college is located.

g. At the hearing the community college may be represented by counsel and may present evidence. The director of the department of education may provide for the hearing to be recorded or reported. If requested by the community college at least ten days before the hearing, the director shall provide for the hearing to be recorded or reported at the expense of the community college, using any reasonable method specified by the community college. Within ten days after the hearing, the director shall render a written decision, and shall affirm, modify, or vacate the action or proposed action to remove the community college from the approved list. The board of directors of the community college may request a review of the decision of the director by the state board. The state board may affirm, modify, or vacate the decision, or may direct a rehearing before the director.

h. This subsection is void and shall be stricken from the Code effective June 30, 1995, except as provided in section 260C.47.

Sec. 3. Section 260C.23, subsection 15, Code 1993, is amended to read as follows:

15. 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. 4. Section 260C.25, subsection 11, Code 1993, is amended by striking the subsection.

Sec. 5. Section 260C.47, subsection 1, unnumbered paragraph 1, Code 1993, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The state board of education shall establish an accreditation process for community college programs by July 1, 1994. The process shall be jointly developed and agreed upon by the department of education and the community colleges. The state accreditation process shall be integrated with the accreditation process of the north central association of colleges and schools, including the evaluation cycle, the self-study process, and the criteria for evaluation, which shall incorporate the standards for community colleges developed under section 260C.48; and shall identify and make provision for the needs of the state that are not met by the association's accreditation process. If a joint agreement has not been reached by July 1, 1994, the approval process provided under section 260C.22B, subsection 4, shall remain the required accreditation process for community colleges. For the academic year commencing July 1, 1995, and in succeeding school years, the department of education shall use a two-component process for the continued accreditation of community college programs.

Sec. 6. Section 260C.47, subsection 1, paragraphs a and b, Code 1993, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. The first component consists of submission of required data by the community colleges and annual monitoring by the department of education of all community colleges for compliance with state program evaluation requirements adopted by the state board.

b. The second component consists of the use of an accreditation team appointed by the director of the department of education, to conduct an evaluation, including an on-site visit of each community college, with a comprehensive evaluation to occur during the same year as the evaluation by the north central association of colleges and schools, and an interim evaluation midway between comprehensive evaluations. The number and composition of the accreditation team shall be determined by the director, but the team shall include members of the department of education staff and community college staff members from community colleges other than the community college that conducts the programs being evaluated for accreditation.

Sec. 7. Section 260C.48, subsection 1, Code 1993, is amended to read as follows:

1. The state board shall develop standards and rules for the accreditation of community college programs. Standards developed shall be general in nature so as to apply to more than one specific program of instruction. ~~However, the state board may develop additional, specific criteria where appropriate to the accreditation process.~~

Sec. 8. Section 260C.48, subsection 2, unnumbered paragraph 1, and paragraphs a and b, and paragraph c, unnumbered paragraph 1, Code 1993, are amended by striking the unnumbered paragraph, lettered paragraphs, and unnumbered paragraph.

Sec. 9. Section 272.33, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Effective July 1, 1990, in addition to licenses required under rules adopted pursuant to this chapter, an individual employed as an administrator, supervisor, school service person, or teacher by a school district, area education agency, or community college, who conducts evaluations of the performance of individuals holding licenses under this chapter, shall possess an evaluator license. Individuals who do not directly supervise licensed teaching faculty are exempt from this section.

Sec. 10. 1990 Iowa Acts, chapter 1253, sections 115 through 117 and 127, are repealed.

Sec. 11. 1992 Iowa Acts, chapter 1040, is repealed.

Sec. 12. Section 260C.33, Code 1993, is repealed.

Approved May 3, 1993

CHAPTER 83

INVOLUNTARY HOSPITALIZATION PROCEDURES – ADVOCATES

S.F. 391

***AN ACT** relating to the appointment and employment of advocates for persons subject to involuntary hospitalization for mental illness.

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

Section 1. Section 229.19, Code 1993, is amended to read as follows:

229.19 ADVOCATES – DUTIES – COMPENSATION – STATE AND COUNTY LIABILITY.

The district court in each county with a population of under three hundred thousand inhabitants and the board of supervisors in each county with a population of three hundred thousand or more inhabitants shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of the mentally ill, and who is not an officer or employee of the department of human services nor of any agency or facility providing care or treatment to the mentally ill, to act as advocate representing the interests of patients involuntarily hospitalized by the court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15. The court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from ~~the~~ a patient's county of legal settlement to represent the interests of the patient~~, or if the~~. If a patient has no county of legal settlement, the court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from the county where the hospital or facility is located to represent the interests of the patient. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney's services are no longer required and requests

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally impaired at the hospitalization hearing, the attorney representing the patient shall automatically be relieved of responsibility in the case and an advocate shall be assigned to the patient at the conclusion of the hearing unless the attorney indicates an intent to continue the attorney's services and the court so directs. If the court directs the attorney to remain on the case the attorney shall assume all the duties of an advocate. The clerk shall furnish the advocate with a copy of the court's order approving the withdrawal and shall inform the patient of the name of the patient's advocate. With regard to each patient whose interests the advocate is required to represent pursuant to this section, the advocate's duties shall include all of the following:

1. To review each report submitted pursuant to sections 229.14 and 229.15.

2. If the advocate is not an attorney, to advise the court at any time it appears that the services of an attorney are required to properly safeguard the patient's interests.

3. To make the advocate readily accessible to communications from the patient and to originate communications with the patient within five days of the patient's commitment.

4. To visit the patient within fifteen days of the patient's commitment and periodically thereafter.

5. To communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25.

6. To file with the court quarterly reports, and additional reports as the advocate feels necessary or as required by the court, in a form prescribed by the court. The reports shall state what actions the advocate has taken with respect to each patient and the amount of time spent.

The hospital or facility to which a patient is committed shall grant all reasonable requests of the advocate to visit the patient, to communicate with medical personnel treating the patient and to review the patient's medical records pursuant to section 229.25. An advocate shall not disseminate information from a patient's medical records to any other person unless done for official purposes in connection with the advocate's duties pursuant to this chapter or when required by law.

The court or, if the advocate is appointed by the county board of supervisors, the board shall ~~from time to time~~ prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid ~~on order of the court~~ by the county in which the court is located, either on order of the court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. ~~The~~ If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the advocate is an employee of the county for purposes of chapter 670.

Approved May 3, 1993

CHAPTER 84

RURAL WATER DISTRICTS

H.F. 169

AN ACT relating to rural water districts, by providing for authority to execute agreements for the administration of services, and the incorporation of real property.

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

Section 1. Section 357A.11, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. Have authority to execute an agreement with a governmental entity, including a county, city, or another district, for purposes of managing or administering the governmental entity's works, facilities, or waterways which are useful for the collection, disposal, or treatment of wastewater or sewage.

Sec. 2. Section 357A.14, subsection 1, Code 1993, is amended to read as follows:

1. ~~Owners~~ An owner of real property outside ~~any~~ a district which can be economically ~~be~~ served by the facilities of the district may petition to be attached to the district. The petition submitted by the district shall be filed with the auditor, and the auditor and supervisors shall notify the district that a petition has been received and proceed~~, in substantially the same manner as is provided by this chapter for filing of and proceeding on a petition for incorporation and organization of a district~~ in a manner set forth in sections 357A.3 through 357A.6.

Approved May 3, 1993

CHAPTER 85

JUDICIAL DEPARTMENT DISCIPLINARY AND CERTIFICATION PROCEDURES

H.F. 301

AN ACT relating to judicial ethics or grievance hearings and examination and admissions subject to the administrative authority of the supreme court.

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

Section 1. Section 602.2104, subsection 2, Code 1993, is amended to read as follows:

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 a judicial officer or an employee of the judicial department at the 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 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 proceeding is held.~~ The attorney general shall prosecute the charge before the commission on behalf of the state. 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. 2. Section 602.2104, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The commission has subpoena power, which may be used in conducting investigations and during the hearing process. A person who disobeys the commission's subpoena or who refuses to testify or produce documents as required by a commission subpoena may be punished for contempt in the district court for the county in which the hearing is being held or the investigation is being conducted. Costs related to investigations and to the appearance of witnesses subpoenaed by the designated prosecutor shall be paid by the commission. Commission subpoenas may be issued as follows:

a. During an investigation, subpoenas shall be issued by the commission, at the request of the person designated to conduct the investigation, to compel the appearance of persons or the production of documents before the person who is designated to conduct the investigation. The person designated to conduct the investigation shall administer the required oath.

b. During the hearing process, subpoenas shall be issued by the commission at the request of the designated prosecutor or the judicial officer or employee of the judicial department.

Sec. 3. Section 602.3106, subsection 1, Code 1993, is amended to read as follows:

1. The supreme court shall set the ~~fees~~ fee for ~~examination and for~~ certification examinations. The fee ~~for examination~~ shall be based on the annual cost of administering the examinations. ~~The fee for certification shall be based~~ and upon the administrative costs of sustaining the board, which shall include but shall not be limited to the cost for per diem, expenses, and travel for board members, and office facilities, supplies, and equipment.

Sec. 4. Section 602.10123, Code 1993, is amended to read as follows:

602.10123 PROCEEDINGS.

The proceedings to remove or suspend an attorney may be commenced by the direction of the court or on ~~motion~~ the petition of any individual. In the former case, the court must direct some attorney to draw up the accusation; in the latter, the accusation must be drawn up and sworn to by the person making it.

Sec. 5. Section 602.10125, Code 1993, is amended to read as follows:

602.10125 ORDER FOR APPEARANCE — NOTICE — SERVICE.

If an action is commenced on the petition of an individual, the court shall notify and refer the matter to the attorney general. The attorney general, within thirty days of the referral, shall submit a report to the court concerning the appropriateness of bringing the action under this chapter. The court shall not proceed with consideration of the merits of the complaint until the report from the attorney general is received. If the court deems the accusation sufficient to justify further action, the court shall determine whether the complaint is more appropriately pursued under this chapter rather than the procedures established under supreme court rule 118. If the court finds that proceeding under this chapter is more appropriate, it shall cause an order to be entered requiring the accused to appear and answer in the court where the accusation has been filed on the day fixed in the order, and shall cause a copy of the accusation and order to be served upon the accused personally.

Approved May 3, 1993

CHAPTER 86

ACUPUNCTURISTS

H.F. 302

AN ACT providing for registration of acupuncturists, imposing a fee, and making penalties applicable.

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

Section 1. 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. 2. 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. 3. 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 required by the board.

c. Successfully completes a training program which conforms to standards established by the board.

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. 4. 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. 5. 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.

Sec. 6. 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. 7. 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. 8. NEW SECTION. 148E.8 SCOPE OF CHAPTER.

This chapter does not apply to a person otherwise licensed to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry.

Sec. 9. 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. 10. 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 person licensed to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, chiropractic, podiatry, or dentistry, and the person has been referred to the acupuncturist by the medical evaluator.

Sec. 11. Section 139C.1, subsection 5, Code 1993, is amended to read as follows:

5. "Health care provider" means a person licensed to practice medicine and surgery, osteopathic medicine and surgery, osteopathy, chiropractic, podiatry, nursing, dentistry, optometry, or as a physician assistant, ~~or~~ dental hygienist, or acupuncturist.

Sec. 12. Section 147.13, subsection 1, Code 1993, is amended to read as follows:

1. For medicine and surgery, ~~and~~ osteopathy, ~~and~~ osteopathic medicine and surgery, and acupuncture, medical examiners.

Sec. 13. Section 147.74, Code 1993, is amended by adding the following new susbsection* after subsection 17 and renumbering the remaining subsection:

*According to enrolled Act

NEW SUBSECTION. 18. An acupuncturist registered under chapter 148E may use the words "registered acupuncturist" after the person's name.

Sec. 14. Section 147.80, Code 1993, 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.

Approved May 3, 1993

CHAPTER 87

TRANSPORTATION AND RELATED PROVISIONS

H.F. 354

AN ACT relating to the state department of transportation by requiring federal and state cooperation regarding federal funding of transportation, by permitting a credit for certain registration fees on leased vehicles purchased by the lessee, concerning motor vehicle license suspension or revocation for drug-related offenses, by eliminating liens on public property and providing for retroactive application, by changing inspection requirements of railroads, by providing for the length of buses, by changing the transportation habitual offender statute and providing for additional penalties, by providing for safety standards for privately owned, public use airports, and by providing for the preapplication process for federal funding for airports and providing an effective date.

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

Section 1. Section 6A.10, subsection 1, Code 1993, is amended to read as follows:

1. The railway corporation shall apply to the department of transportation for permission to condemn. The railway corporation shall serve notice of the application and hearing and provide a copy of the legal description of the property to be condemned to the owner and any recordholders of liens and encumbrances on any land described in the application. The department may, after hearing, report to the district court clerk of the county in which the land is situated the description of the land sought to be condemned. The corporation may begin condemnation procedures in district court for the land described by the authority.

DIVISION I

Sec. 2. Section 307.44, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If funds are allotted or appropriated by the government of the United States for the improvement of ~~streets and highways~~ transportation facilities and services in this state, ~~and the federal statutes or the rules and regulations of the federal government provide or contemplate that the work shall be under the supervision of the director, the director may let the necessary contracts for the construction work, supervise and direct the construction work,~~ the department may cooperate with the government of the United States, and any agency or department thereof, in the planning, acquisition, contract letting, construction, improvement, maintenance, and operation of transportation facilities and services in this state; may comply with the federal statutes and rules~~,~~; and may cooperate with the federal government in the expenditure of the federal funds.

Sec. 3. Section 321.46, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a motor vehicle is leased and the lessee purchases the vehicle upon termination of the lease, the lessor shall, upon claim by the lessee with the lessor within

fifteen days of the purchase, assign the registration fee credit and registration plates for the leased motor vehicle to the lessee. Credit shall be applied as provided in subsection 3.

Sec. 4. Section 321.205, Code 1993, as amended by 1993 Iowa Acts, Senate File 373,* section 3, is amended to read as follows:

321.205 CONVICTION OR ADMINISTRATIVE DECISION IN ANOTHER STATE.

The department is authorized to suspend or revoke the motor vehicle license of a resident of this state upon receiving notice of the conviction of the resident in another state ~~or for a conviction under federal jurisdiction~~ for an offense which, if committed in this state, would be grounds for the suspension or revocation of the license or upon receiving notice of a final administrative decision in another state that the resident has acted in a manner which would be grounds for suspension or revocation of the license in this state.

The department shall suspend or revoke for one hundred eighty days the motor vehicle license of a resident of this state upon receiving notice of conviction in another state or under federal jurisdiction for ~~an~~ a drug or drug-related offense ~~enumerated under section 321.209, subsection 8~~.

Sec. 5. Section 328.13, Code 1993, is repealed.

DIVISION II

Sec. 6. Section 321.213, Code 1993, is amended to read as follows:

321.213 LICENSE SUSPENSIONS OR REVOCATIONS DUE TO VIOLATIONS BY JUVENILE DRIVERS.

Upon the entering of an order at the conclusion of an adjudicatory hearing under section 232.47 that the child violated a provision of this chapter or chapter 321A or chapter 321J for which the penalty is greater than a simple misdemeanor, the clerk of the juvenile court in the adjudicatory hearing shall forward a copy of the adjudication to the department. Notwithstanding section 232.55, a final adjudication in a juvenile court that the child violated a provision of this chapter or chapter 321A or chapter 321J constitutes a final conviction of a violation of a provision of this chapter or chapter 321A or chapter 321J for purposes of section 321.189, subsection 8, paragraph "b", and sections 321.193, 321.194, 321.200, 321.209, 321.210, 321.215, 321.555, 321A.17, 321J.2, 321J.3, and 321J.4.

Sec. 7. Section 321.457, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. A single bus~~, unladen or with load,~~ shall not have an overall length, inclusive of front and rear bumpers, in excess of ~~forty~~ forty-five feet, except that buses constructed so as to contain a flexible part allowing articulation shall not exceed sixty-one feet.

Sec. 8. Section 321.555, subsection 1, paragraph c, Code 1993, is amended to read as follows:

c. Driving a motor vehicle while the person's motor vehicle license is suspended, ~~or~~ revoked, or barred.

DIVISION III

Sec. 9. Section 327C.4, Code 1993, is amended to read as follows:

327C.4 INSPECTION — NOTICE TO REPAIR.

The department shall inspect the condition of each ~~railroad, its~~ railroad's rail track, and may inspect the condition of each railroad's rail facilities, equipment, rolling stock, operations and pertinent records at reasonable times and in a reasonable manner to insure proper operations. Employees of the department shall have proper identification which shall be displayed upon request. If found unsafe, the department shall immediately notify the railroad corporation whose duty it is to put the same in repair, which shall be done by it within such time as the department shall fix. If any corporation fails to perform this duty the department may forbid and prevent it from running trains over the defective portion while unsafe or may regulate the speed and operation of trains moving over the defective portion of the railroad. If the railroad corporation violates any requirement provided by the department, the railroad

*Chapter 16 herein

corporation shall be subject to a schedule "two" penalty for each day the repairs have not been made from the date the department set for repairs to be completed. The court may consider the willingness and ability of the railroad corporation to co-operate in removing the safety hazard. Notwithstanding the provisions of chapter 669, the state shall not be held liable for damages for any act or failure to act under the provisions of this section.

DIVISION IV

Sec. 10. Section 328.35, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 11. Section 328.35, subsection 3, Code 1993, is amended to read as follows:

3. No registration ~~or site approval~~ is required for an airport maintained ~~solely~~ for ~~personal~~ private use ~~and not for hire~~.

DIVISION V

Sec. 12. Section 330.13, Code 1993, is amended to read as follows:

330.13 FEDERAL AID.

Any subdivision of government is authorized to accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, and other air navigation facilities, and sites ~~therefor~~ for airports and other navigation facilities, and to comply with ~~the provisions of~~ the laws of the United States and any ~~rules and~~ regulations ~~made thereunder~~ for the expenditure of federal moneys upon ~~such~~ airports and other air navigation facilities.

All preapplications for funds authorized to be received pursuant to this section by any governmental subdivision, commission, or authority, whether acting alone or jointly with another governmental or private entity, shall be approved by the state transportation commission prior to being submitted to any federal agency or department. Approval shall be based on criteria consistent with the Iowa aviation system plan. However, this paragraph does not apply to preapplications from airports which receive federal primary commercial service entitlement funds if the airport making the preapplication files a copy of the preapplication with the state department of transportation.

DIVISION VI

Sec. 13. NEW SECTION. 626.109 PUBLIC PROPERTY.

A judgment against a department, agency, division, or official of the state does not create or constitute a lien against public property held by the state.

Sec. 14. RETROACTIVE APPLICABILITY. Section 13 of this Act is retroactively applicable to all judgments against a department, agency, division, or official of the state.

Sec. 15. EFFECTIVE DATE. Sections 10 and 11 of this Act take effect on January 1, 1994.

Approved May 3, 1993

CHAPTER 88

INSURANCE REGULATION AND WORKERS' COMPENSATION

H.F. 495

AN ACT relating to regulation of insurance, including the authority of the division to regulate certain policies and contracts and the parties to such policies and contracts, establishing fees, and providing a penalty.

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

Section 1. Section 85.61, subsection 11, unnumbered paragraph 3, Code 1993, is amended to read as follows:

"Worker" or "employee" includes a basic emergency medical care provider as defined in section 147.1, ~~or~~ an advanced emergency medical care provider as defined in section 147A.1, a volunteer ambulance driver, or an emergency medical technician trainee, only if an agreement is reached between ~~the basic or advanced emergency medical care provider~~ such worker or employee and the employer for whom the volunteer services are provided that workers' compensation coverage under chapters 85, 85A, and 85B is to be provided by the employer. A basic or advanced emergency medical care provider who is a worker or employee under this paragraph is not a casual employee. "Volunteer ambulance driver" means a person performing services as a volunteer ambulance driver at the request of the person in charge of a fire department or ambulance service of a municipality. "Emergency medical technician trainee" means a person enrolled in and training for emergency medical technician certification.

Sec. 2. NEW SECTION. 87.23A INSURANCE TRADE PRACTICES COVERED.

A workers' compensation coverage plan regulated under this chapter shall be considered a person for purposes of chapter 507B.

Sec. 3. Section 505.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The insurance division shall, by January 15 of each year, prepare estimates of projected receipts, refunds, and reimbursements to be generated by the examinations function of the division during the calendar year in which the report is due, and such receipts, refunds, and reimbursements shall be treated in the same manner as repayment receipts, as defined in section 8.2, subsection 8, and shall be available to the division to pay the expenses of the division's examination function.

Sec. 4. Section 507B.4, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase of an insurance policy.

Sec. 5. Section 507C.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Prepaid health care delivery plans which are regulated by the commissioner.

Sec. 6. Section 507C.14, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 7. Section 507C.26, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person receiving property from an insurer or any benefit from an insurer which is a fraudulent transfer under subsection 1 is personally liable for the property or benefit and shall account to the liquidator.

Sec. 8. Section 507C.42, subsections 3 and 4, Code 1993, are amended to read as follows:

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. ~~Premium refunds, claims~~ Claims of general creditors, including claims of ceding and assuming reinsurers in their capacity as such, and subrogation claims.

Sec. 9. Section 509A.14, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 10. Section 509A.15, subsection 1, Code 1993, is amended to read as follows:

1. Within ninety days following the end of a 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, actuarial opinion, and an annual financial report. The ~~certificate of compliance~~ filing shall be accompanied by a ~~filing~~ fee of one hundred dollars. A penalty of fifteen dollars per day shall be assessed for failure to comply with the ninety-day filing requirement, except that the commissioner may waive the penalty upon a showing that special circumstances exist which justify the waiver. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

a. That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.

b. That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan. ~~The actuarial opinion shall be issued by a fellow of the society of actuaries.~~ The actuarial opinion must include, but is not limited to, a brief commentary about the adequacy of the reserves, rates, and the financial condition of the plan, a test of the prior year claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American academy of actuaries. If necessary, the actuary should assist the public body in preparing the annual financial report. The annual financial report shall be in a format as prescribed by the commissioner.

c. That a written complaint procedure has been implemented. The certificate shall also list the number of complaints filed by participants under the written complaint procedure, and the percentage of participants filing written complaints, in the prior fiscal year.

d. That the governing body has contracted or otherwise arranged with a ~~third party for plan administration~~ third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to section 510.21, or with a person not required to obtain the certificate as an administrator as defined in section 510.11, subsection 1.

Sec. 11. NEW SECTION. 510.5A UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

A managing general agent is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 12. NEW SECTION. 510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

An administrator is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 13. NEW SECTION. 510A.6 PENALTIES.

1. If the commissioner believes that a controlling producer or any other person subject to this chapter has not materially complied with this chapter, or any rule adopted or order issued pursuant to this chapter, after notice and opportunity to be heard, the commissioner may order the controlling producer to cease placing business with the controlled insurer. Additionally,

if the commissioner finds that because of such noncompliance the controlled insurer or any policyholder of the controlled insurer has suffered any loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder, or for other appropriate relief.

2. If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to chapter 507C, and the receiver appointed under that order believes that the controlling producer or any other person has not materially complied with this chapter, or any rule adopted or order issued pursuant to this chapter, and that the insurer suffered any loss or damage as a result of the noncompliance, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

3. This section shall not be construed to affect or limit the right of the commissioner to impose any other penalties, as appropriate, which the commissioner is authorized to impose.

4. This section shall not be construed to affect or limit the rights of policyholders, claimants, creditors, or other third parties.

Sec. 14. NEW SECTION. 512B.21A REQUIRED RESERVES.

A society incorporated on or after July 1, 1993, shall have in cash, or in securities which are authorized for investment purposes for insurance companies pursuant to section 512B.21, surplus in an amount not less than five million dollars.

Sec. 15. NEW SECTION. 513A.7 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

A third-party payor of health care benefits is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 16. Section 514B.32, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A health maintenance organization authorized under this chapter shall be considered a person for purposes of chapter 507B.

Sec. 17. Section 515.81A, Code 1993, is amended to read as follows:

515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR CONTRACTS.

1. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, which has not been previously renewed may be canceled by the insurer if it has been in effect for less than sixty days at the time notice of cancellation is mailed or delivered.

2. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, which has been renewed or which has been in effect for more than sixty days shall not be canceled unless at least one of the following conditions occurs:

a. Nonpayment of premium.

b. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or contract, when renewing the policy or contract, or in presenting a claim under the policy or contract.

c. Actions by the insured which substantially change or increase the risk insured.

d. Determination by the commissioner that the continuation of the policy will jeopardize the insurer's solvency or will constitute a violation of the law of this or any other state.

e. The insured has acted in a manner which the insured knew or should have known was in violation or breach of a policy or contract term or condition.

3. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, may be canceled at any time if the insurer loses reinsurance coverage which provides coverage to the insurer for a significant portion of the underlying risk insured and if the commissioner determines that cancellation because of loss of reinsurance coverage is justified. In determining whether a cancellation because of loss of reinsurance coverage is justified, the commissioner shall consider all of the following factors:

a. The volatility of the premiums charged for reinsurance in the market.

b. The number of reinsurers in the market.

c. The variance in the premiums for reinsurance offered by the reinsurers in the market.

d. The attempt by the insurer to obtain alternate reinsurance.

e. Any other factors deemed necessary by the commissioner.

4. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, shall not be canceled except by notice to the insured as provided in this subsection. A notice of cancellation shall include the reason for cancellation of the policy or contract. A notice of cancellation is not effective unless mailed or delivered to the named insured and a loss payee at least ten days prior to the effective date of cancellation, or if the cancellation is because of loss of reinsurance, at least thirty days prior to the effective date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

Sec. 18. NEW SECTION. 515.130 REBATES PROHIBITED.

An insurance company or an employee of the insurance company, or an agent, shall not pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to purchase or acquire insurance or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy, except to the extent provided for in an applicable filing. An insured named in a policy, or an employee of the insured, shall not knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit, or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

This section shall not be construed to prohibit the payment of commissions or other compensation to duly licensed agents, or to prohibit any insurer from allowing or returning to its participating policyholders, members, or subscribers, dividends, savings, or unabsorbed premium deposits. As used in this section, "insurance" includes suretyship and "policy" includes bond.

Sec. 19. Section 515.147, Code 1993, is amended to read as follows:

515.147 BUSINESS WITH NONADMITTED INSURERS.

This chapter does not prevent a licensed resident or nonresident agent of this state, qualified to write excess and surplus lines insurance, from procuring insurance in certain nonadmitted insurers if such insurance is restricted to the type and kind of insurance authorized by this chapter, excluding insurance authorized under section 515.48, subsection 5, paragraph "a", and the agent makes oath to the commissioner of insurance in the form prescribed by the commissioner that the agent has made diligent effort to place the insurance in authorized insurers and has either exhausted the capacity of all authorized insurers or has been unable to obtain the desired insurance in insurers licensed to transact business in this state. The procuring of a contract of insurance in a nonadmitted insurer makes the insurer liable for, and the agent shall pay, the taxes on the premiums as if the insurer were duly authorized to transact business in the state. A sworn report of all business transacted by agents of this state in nonadmitted insurers shall be made to the commissioner of insurance on or before March 1 of each year for the preceding calendar year, on the form required by the commissioner of insurance. The report shall be accompanied by a remittance to cover the taxes on the premiums. An agent who makes the oath, pays the taxes on the premiums, and files the report has not written such contracts of insurance unlawfully, and is not personally liable for the contracts.

Sec. 20. Section 515A.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If a hearing is requested pursuant to section 515A.6, subsection 7, a filing shall not take effect until thirty days after formal approval is given by the commissioner.

Sec. 21. Section 515A.16, Code 1993, is amended to read as follows:

515A.16 ~~REBATES PROHIBITED~~ PREMIUMS.

~~No~~ An agent shall not knowingly charge, demand, or receive a premium for any policy of insurance except in accordance with the provisions of this chapter. ~~No insurer or employee thereof, and no agent, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing. No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.~~

~~Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, nor as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. As used in this section the word "insurance" includes suretyship and the word "policy" includes bond.~~

Sec. 22. Section 515B.2, subsection 3, Code 1993, is amended to read as follows:

3. a. "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within the coverage and is subject to the applicable limits of an insurance policy to which this chapter applies issued by an insurer, if such insurer becomes an insolvent insurer after July 1, 1970, and one of the following conditions exists:

(1) The claimant or insured is a resident of this state at the time of the insured event. Other than an individual, the residence of the claimant or insured is the state in which its principal place of business is located.

(2) The claim is ~~one~~ a first party claim by an insured for damage to property permanently located in this state.

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

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

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

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

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

(5) That is a fine, penalty, interest, or punitive or exemplary damages.

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

(7) That would otherwise be a covered claim, but is an obligation to or on behalf of a person who has a net worth, on the date of the occurrence giving rise to the claim, greater than that allowed by the guarantee fund law of the state of residence of the claimant, and which state has denied coverage to that claimant on that basis.

(8) That is an obligation owed to or on behalf of an affiliate of, as defined in section 521A.1, an insolvent insurer.

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

Sec. 23. Section 515B.17, Code 1993, is amended to read as follows:

515B.17 TIMELY FILING OF CLAIMS.

Notwithstanding any other provision of this chapter, a covered claim shall not include any claim filed with the association after the final date set by the court for the filing of claims against the insolvent insurer or its receiver. ~~However the association may waive the requirement of this section when in its discretion the claim was not timely presented due to circumstances beyond the control of the person having the claim.~~

Sec. 24. Section 515C.7, Code 1993, is amended to read as follows:

515C.7 RATE-MAKING PROVISIONS.

Mortgage guaranty insurance shall be subject to the provisions of chapter ~~515A~~ 515F, for the purposes of rate making.

Sec. 25. Section 515E.10, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A risk retention group or purchasing group operating under this chapter shall be considered a person for purposes of chapter 507B.

Sec. 26. Section 521A.3, subsection 4, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The commissioner may retain any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed merger or acquisition of control, the reasonable cost of which shall be paid by the acquiring party.

Sec. 27. Section 521A.5, subsection 1, paragraph a, subparagraph (5), Code 1993, is amended to read as follows:

(5) After any material transaction with an affiliate and after any dividends or distributions to shareholder affiliates, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Sec. 28. Section 521A.5, subsection 1, paragraphs b and c, Code 1993, are amended to read as follows:

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

(1) Sales.

(2) Purchases.

(3) Exchanges.

(4) Loans or extensions of credit.

(5) Guarantees.

(6) Investments.

(7) Loans or extensions of credit to a person who is not an affiliate, if the domestic insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the domestic insurer making the loans or extensions of credit.

c. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the

transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

(1) All reinsurance agreements ~~which in the aggregate will or may require as consideration the net transfer of assets to or by the domestic insurer in an amount, as of the next preceding December 31, exceeding twenty-five percent of statutory surplus~~ or modifications to such agreements in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the next preceding December 31, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(2) All management agreements, service contracts, and all other cost-sharing arrangements involving at least one-half of one percent of the insurer's surplus as of the next preceding December 31.

(3) Any material transactions specified by rule which the commissioner determines may adversely affect the interests of the domestic insurer's policyholders.

Sec. 29. Section 521A.5, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. The quality of the company's earnings and the extent to which the reported earnings include extraordinary items.

Sec. 30. Section 521A.5, subsection 3, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

3. DIVIDENDS AND OTHER DISTRIBUTIONS.

a. A domestic insurer may declare and pay dividends to its shareholders only from earned surplus.

For the purposes of this paragraph, "earned surplus" means surplus as regards policyholders less paid-in and contributed surplus, and may include a fair revaluation of assets by the board of directors that is reasonable under the circumstances. Assets revalued by the board of directors cannot be included in earned surplus until thirty days after the commissioner has received notice of the revaluation and has approved the revaluation. The commissioner shall approve or disapprove the revaluation within thirty days after receiving notice of the revaluation unless for good cause the commissioner extends the approval period for an additional thirty days.

b. 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 until the time the commissioner has approved the payment within the thirty-day period.

For purposes of this paragraph, 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 greater of the following:

(1) Ten percent of insurer's surplus as regards policyholders as of the thirty-first day of December next preceding.

(2) The net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding.

An extraordinary dividend or distribution does not include pro rata distributions of any class of the insurer's own securities.

c. A domestic insurer subject to registration under section 521A.4 shall report to the commissioner all dividends to shareholders within five business days following the declaration of the dividends and not less than fourteen days prior to the payment of the dividends. This report shall also include a schedule setting forth all dividends or other distributions made within the previous twelve months.

d. Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval of the dividend or distribution. Such 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 paragraph "b".

Sec. 31. Section 521A.7, Code 1993, is amended to read as follows:

521A.7 CONFIDENTIAL TREATMENT.

All information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 521A.6 and all information reported pursuant to ~~section~~ sections 521A.4 and 521A.5, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate.

Sec. 32. Section 522.2, Code 1993, is amended to read as follows:

522.2 TERM OF LICENSE.

A license is valid for ~~one year~~ three years.

Sec. 33. WORKERS' COMPENSATION MARKET — MONITORING. The commissioner of insurance shall monitor the residual and assigned risks markets for workers' compensation coverage. The commissioner shall monitor, at a minimum, the effect of the residual and assigned risks markets on the volume of coverage written in the voluntary market.

Sec. 34. 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, and 1992 Iowa Acts, chapter 1162, section 51, is repealed.

Approved May 3, 1993

CHAPTER 89

PUBLIC BONDS AND OBLIGATIONS — RECORDS — LIMITATION OF ACTIONS

H.F. 579

AN ACT relating to the disposition of documents pertaining to the issuance of certain bonds or obligations.

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

Section 1. Section 76.10, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. a. Records and documents pertaining to cancellation, transfer, redemption, or replacement of public bonds or obligations shall be preserved by the issuer or its agent for a period of not less than eleven years. Thereafter, the records and documents may be destroyed by the issuer or its agent, preserving confidentiality as necessary.

b. An action with respect to the cancellation, transfer, redemption, or replacement of public bonds or obligations shall not be brought against an issuer, trustee, transfer agent, registrar, depository, paying agent, or other agent unless it is commenced within eleven years of the cancellation, transfer, redemption, or replacement of the bonds or obligations.

Sec. 2. Section 372.13, subsection 5, Code 1993, is amended to read as follows:

5. The council shall determine its own rules and maintain records of its proceedings. City records and documents, or accurate reproductions, shall be kept for at least five years except that:

a. Ordinances, resolutions, council proceedings, records and documents, or accurate reproductions, relating to the issuance of public bonds or obligations shall be kept for at least eleven years following the final maturity of the bonds or obligations. Thereafter, such records, documents, and reproductions may be destroyed, preserving confidentiality as necessary. Records and documents pertaining to the transfer of ownership of bonds shall be kept as provided in section 76.10.

b. Ordinances, resolutions, council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently. ~~However, ordinances, resolutions, council proceedings, and records and documents relating to real property transactions or bond issues or accurate reproductions of those ordinances, resolutions, council proceedings, and records and documents relating to real property transactions or bond issues, shall be maintained permanently.~~

Sec. 3. Section 614.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13. PUBLIC BONDS OR OBLIGATIONS. Those founded on the cancellation, transfer, redemption, or replacement of public bonds or obligations by an issuer, trustee, transfer agent, registrar, depository, paying agent, or other agent of the public bonds or obligations, within eleven years of the cancellation, transfer, redemption, or replacement of the public bonds or obligations.

Approved May 3, 1993

CHAPTER 90

HOUSING FACILITIES FOR PERSONS WITH CERTAIN DISABILITIES

H.F. 584

AN ACT relating to housing facilities for persons with certain disabilities.

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

Section 1. NEW SECTION. 504C.1 HOUSING — PERSONS WITH PHYSICAL DISABILITIES.

1. For the purposes of this chapter, "physical disability" means a physical impairment that results in significant functional limitations in one or more areas of major life activity and in the need for specialized care, treatment, or training services of extended duration.

2. Individuals with physical disabilities may form nonprofit corporations pursuant to chapter 504A for the sole purpose of establishing homes for persons with disabilities which are intended to serve two to five residents who are members of the nonprofit corporation.

3. A nonprofit corporation formed under this section may do any of the following:

a. Design, modify, or construct a specific housing facility to provide appropriate services and support to the residents of the specific housing facility. Local requirements shall not be more restrictive than the rules adopted for a family home, as defined in section 335.25 or 414.22, and the state building code requirements for single-family or multiple-family housing.

b. Contract for or employ staff for personal attendant needs and for the management and operation of the housing facility.

c. Purchase, modify, maintain, and operate transportation services for the use of the housing facility residents.

4. Residents of housing facilities established under this chapter shall be eligible to apply for or continue to receive funding provided through federal, state, and county funding sources, and assets of the members of the nonprofit corporation used in the establishment, management, and operation of the housing facility, including but not limited to provision of services to the residents of the facility, shall not be considered in determining a resident's eligibility for funding provided through sources otherwise available to the resident.

Sec. 2. Section 335.25, subsection 3, Code 1993, is amended to read as follows:

3. Notwithstanding the optional provision in section 335.1 and any other provision of this chapter to the contrary, a county, county board of supervisors, or a county zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the county. A county, county board of supervisors, or a county zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, ~~a new family home shall not be located within one-fourth of a mile from another family home~~ new family homes owned or operated by public or private agencies shall be disbursed through the residential zones and districts and shall not be located within contiguous areas equivalent in size to city block areas. Section 135C.23, subsection 2 shall apply to all residents of a family home.

Sec. 3. NEW SECTION. 335.32 HOMES FOR PERSONS WITH PHYSICAL DISABILITIES.

A county board of supervisors or county zoning commission shall consider a home for persons with physical disabilities a family home, as defined in section 335.25, for the purposes of zoning, in accordance with chapter 135L.*

Sec. 4. Section 414.22, subsection 3, Code 1993, is amended to read as follows:

3. Notwithstanding any provision of this chapter to the contrary, a city, city council, or city zoning commission shall consider a family home a residential use of property for the purposes of zoning and shall treat a family home as a permitted use in all residential zones or districts, including all single-family residential zones or districts, of the city. A city, city council, or city zoning commission shall not require that a family home, its owner, or operator obtain a conditional use permit, special use permit, special exception, or variance. However, ~~a new family home shall not be located within one-fourth of a mile from another family home~~ new family homes owned and operated by public or private agencies shall be disbursed throughout the residential zones and districts and shall not be located within contiguous city block areas. Section 135C.23, subsection 2 shall apply to all residents of a family home.

Sec. 5. NEW SECTION. 414.30 HOMES FOR PERSONS WITH PHYSICAL DISABILITIES.

A city council or city zoning commission shall consider a home for persons with physical disabilities a family home, as defined in section 414.22, for purposes of zoning in accordance with chapter 135L.*

Sec. 6. FEDERAL WAIVER. The department of human services shall, if necessary, request a waiver from the secretary of the United States department of health and human services to permit the continuation of medical and other assistance eligibility to residents of a housing facility for persons with physical disabilities.

Approved May 3, 1993

*Chapter 504C probably intended

CHAPTER 91

ALCOHOLIC BEVERAGE CONTROL

H.F. 633

***AN ACT** relating to the approval, disapproval, suspension, or revocation of liquor control licenses, wine permits, or beer permits, the imposition of civil penalties, and the appeal of the actions of local authorities or the administrator of the alcoholic beverages division regarding liquor control licenses, wine permits, and beer permits, the appropriation of moneys collected through civil penalties, the removal of certain restrictions on the sale of alcoholic beverages, and providing for other properly related matters.

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

Section 1. Section 123.3, subsection 26, paragraphs c and e, Code 1993, are amended to read as follows:

c. ~~Is~~ Notwithstanding paragraph "e", the applicant is a citizen of the United States and a resident of this state, or licensed to do business in this state in the case of a corporation. Notwithstanding paragraph "~~f~~ e," in the case of a partnership, only one general partner need be a resident of this state.

e. ~~If such person is a corporation, partnership, association, club, or hotel or motel the~~ The requirements of this subsection ~~shall~~ apply to ~~each~~ the following:

(1) Each of the officers, directors, and partners of such person~~, and to any~~.

(2) A person who directly or indirectly owns or controls ten percent or more of any class of stock of such person ~~or~~.

(3) A person who directly or indirectly has an interest of ten percent or more in the ownership or profits of such person. ~~For the purposes of this provision, an individual and the individual's spouse shall be regarded as one person.~~

Sec. 2. Section 123.16, subsection 2, paragraph b, Code 1993, is amended by striking the paragraph.

Sec. 3. Section 123.19, subsection 4, Code 1993, is amended to read as follows:

4. Any violation of the requirements of this section, except subsection 3, shall subject the violator to the general penalties provided in this chapter and in addition ~~thereto shall be~~ to the general penalties, is grounds for suspension or revocation of the certificate of compliance, after notice and hearing before the ~~division hearing board~~ administrator. Willful failure to comply with requirements which may be imposed under subsection 3 ~~shall be~~ is grounds for suspension or revocation of the certificate of compliance only. ~~Decisions of the hearing board concerning such suspension or revocation shall be binding upon all parties.~~

Sec. 4. Section 123.24, subsection 2, paragraphs a and b, Code 1993, are amended to read as follows:

a. The division may accept from a class "E" liquor control licensee a cashier's check which shows the licensee is the remitter or a check issued by the licensee in payment of alcoholic liquor. If a check is subsequently dishonored, the division shall cause a notice of nonpayment and penalty to be served upon the class "E" liquor control licensee or upon any person in charge of the licensed premises. The notice shall state that if payment or satisfaction for the dishonored check is not made within ten days of the service of notice, the licensee's liquor control license ~~shall~~ may be suspended under section 123.39. The notice of nonpayment and penalty shall be in a form prescribed by the administrator, and shall be sent by certified mail.

b. If upon notice and hearing under section 123.39 and pursuant to the provisions of chapter 17A concerning a contested case hearing, the administrator determines that the class "E" liquor control licensee failed to satisfy the obligation for which the check was issued within ten days after the notice of nonpayment and penalty was served on the licensee as provided in paragraph "a" of this subsection, the administrator ~~shall~~ may suspend the licensee's class "E" liquor control license for ~~not less than three days but not more than thirty~~ a period not to exceed ten days.

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

Sec. 5. Section 123.24, subsection 2, paragraph c, Code 1993, is amended by striking the paragraph.

Sec. 6. Section 123.29, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

123.29 PATENT AND PROPRIETARY PRODUCTS CONTAINING ALCOHOLIC LIQUOR, WINE, OR BEER.

1. This chapter does not prohibit the sale of patent and proprietary medicines, tinctures, food products, extracts, toiletries, perfumes, and similar products, which are not susceptible of use as a beverage, but which contain alcoholic liquor, wine, or beer as one of their ingredients. These products may be sold through ordinary wholesale and retail businesses without a license or permit issued by the division.

2. This chapter does not prohibit a member of the clergy of any religious denomination which uses vinous liquor in its sacramental ceremonies from purchasing, receiving, possessing, and using vinous liquor for sacramental purposes.

Sec. 7. Section 123.30, subsection 1, Code 1993, is amended to read as follows:

1. a. A liquor control license may be issued to any person who~~, or whose officers in the case of a club or corporation, or whose partners in the case of a partnership, are~~ is of good moral character as defined by this chapter.

b. As a condition for issuance of a liquor control license or wine or beer permit, the applicant must give consent to members of the fire, police, and health departments and the building inspector of cities; the county sheriff, deputy sheriff, members of the department of public safety, representatives of the division and of the department of inspections and appeals, certified police officers, and any official county health officer to enter upon areas of the premises where alcoholic beverages are stored, served, or sold, without a warrant during business hours of the licensee or permittee to inspect for violations of this chapter or ordinances and regulations that cities and boards of supervisors may adopt. However, a subpoena issued under section 421.17 or a warrant is required for inspection of private records, a private business office, or attached living quarters. Persons who are not certified peace officers shall limit the scope of their inspections of licensed premises to the regulatory authority under which the inspection is conducted. All persons who enter upon a licensed ~~premise~~ premises to conduct an inspection shall present appropriate identification to the owner of the establishment or the person who appears to be in charge of the establishment prior to commencing an inspection; however, this provision does not apply to undercover criminal investigations conducted by peace officers.

c. As a further condition for the issuance of a class "E" liquor control license, the applicant shall post a bond in a sum of not less than five thousand nor more than fifteen thousand dollars as determined on a sliding scale established by the division; however, a bond shall not be required if all purchases of alcoholic liquor from the division by the licensee are made by cash payment or by means that ensure that the division will receive full payment in advance of delivery of the alcoholic liquor.

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

Sec. 8. Section 123.30, subsection 3, paragraph d, Code 1993, is amended to read as follows:

d. CLASS "D".

(1) A class "D" liquor control license may be issued to a railway corporation, to an air common carrier, and to passenger-carrying boats or ships for hire with a capacity of twenty-five persons or more operating in inland or boundary waters, and shall authorize the holder to sell

or furnish alcoholic beverages, wine, and beer to passengers for consumption only on trains, watercraft as described in this section, or aircraft, respectively. Each license is valid throughout the state. Only one license is required for all trains, watercraft, or aircraft operated in the state by the licensee. However, if a watercraft is an excursion gambling boat licensed under chapter 99F, the owner shall obtain a separate class "D" liquor control license for each excursion gambling boat operating in the waters of this state.

(2) A class "D" liquor control licensee who operates a train or a watercraft intrastate only, or an excursion gambling boat licensed under chapter 99F, shall purchase alcoholic liquor from a class "E" liquor control licensee only, wine from a class "A" wine permittee or a class "B" wine permittee who also holds a class "E" liquor control license only, and beer from a class "A" beer permittee only.

Sec. 9. Section 123.31, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~Verified~~ Except as otherwise provided in section 123.35, verified applications for the original issuance or the renewal of liquor control licenses shall be filed at ~~such~~ the time and in ~~such~~ the number of copies as the administrator shall prescribe, on forms prescribed by the administrator, and~~, except as provided in section 123.35,~~ shall set forth under oath the following information:

Sec. 10. Section 123.32, subsections 2, 4, and 6, Code 1993, are amended to read as follows:

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

4. ACTION BY ADMINISTRATOR.

a. Upon receipt of an application having been disapproved by the local authority, the administrator shall ~~disapprove the application, so~~ notify the applicant that the applicant may appeal the disapproval of the application to the administrator. The applicant shall be notified by certified mail, and ~~return~~ the application, the fee, and any bond shall be returned to the applicant.

b. Upon receipt of an application having been approved by the local authority, the division shall make ~~such~~ an investigation as the administrator deems necessary to determine that the applicant complies with all requirements for holding a license or permit, and may require the applicant to appear to be examined under oath ~~regarding any matters pertinent to the application, in which case~~ to demonstrate that the applicant complies with all of the requirements to hold a license or permit. If the administrator requires the applicant to appear and to testify under oath, a record shall be made of all testimony or evidence and the ~~same~~ record shall become a part of the application. The administrator may appoint a member of the division or may request an administrative law judge of the department of inspections and appeals to receive the testimony under oath and evidence, and to issue a proposed decision to approve or disapprove the application for a license or permit. The administrator may affirm, reverse, or modify the proposed decision to approve or disapprove the application for the license or permit. If the application is approved by the administrator, the license or permit ~~applied for~~ shall be issued. If the application is disapproved by the administrator, the applicant and the appropriate local authority shall be so notified by certified mail~~, and the fee and any bond returned to the applicant~~.

6. JUDICIAL REVIEW. ~~Judicial~~ The applicant or the local authority may seek judicial review of the action of the ~~division hearing board may be sought~~ administrator in accordance with the terms of the Iowa administrative procedure Act. Notwithstanding the terms of ~~said~~ the Iowa administrative procedure Act, petitions for judicial review may be filed in the

district court of the county ~~wherein~~ where the premises covered by the application are situated.

~~Where the hearing board on an appeal by an applicant finds that the local authority acted arbitrarily, capriciously, or without reasonable cause in disapproving an application and the administrator issues a license or permit, the local authority may seek judicial review of such decision according to the terms of the Iowa administrative procedure Act within thirty days.~~

Sec. 11. Section 123.32, subsection 5, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

5. APPEAL TO ADMINISTRATOR. An applicant for a liquor control license, wine permit, or beer permit may appeal from the local authority's disapproval of an application for a license or permit to the administrator. In the appeal the applicant shall be allowed the opportunity to demonstrate in an evidentiary hearing conducted pursuant to chapter 17A that the applicant complies with all of the requirements for holding the license or permit. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the evidentiary hearing and to render a proposed decision to approve or disapprove the issuance of the license or permit. The administrator may affirm, reverse, or modify the proposed decision. If the administrator determines that the applicant complies with all of the requirements for holding a license or permit, the administrator shall order the issuance of the license or permit. If the administrator determines that the applicant does not comply with the requirements for holding a license or permit, the administrator shall disapprove the issuance of the license or permit.

Sec. 12. Section 123.32, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. SUSPENSION BY LOCAL AUTHORITY. A liquor control licensee or a wine or beer permittee whose license or permit has been suspended or revoked or a civil penalty imposed by a local authority for a violation of this chapter or suspended by a local authority for violation of a local ordinance may appeal the suspension, revocation, or civil penalty to the administrator. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to hear the appeal which shall be conducted in accordance with chapter 17A and to issue a proposed decision. The administrator may review the proposed decision upon the motion of a party to the appeal or upon the administrator's own motion in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A liquor control licensee, wine or beer permittee, or a local authority aggrieved by a decision of the administrator may seek judicial review of the decision pursuant to chapter 17A.

Sec. 13. Section 123.35, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~Such~~ The application, accompanied by the necessary fee and bond, if required, shall be filed in the same manner as is provided for filing the initial application. However, for the renewal of a class "E" license, the simplified application form for renewal, accompanied by the necessary fee and bond if required, shall be filed directly with the administrator without the endorsement of local authorities if all of the following conditions are met: the applicant's license has not been suspended or revoked since the preceding license was issued; a civil penalty has not been imposed against the applicant under this chapter since the preceding license was issued; an administrative proceeding is not pending against the applicant to suspend or revoke the applicant's license or to impose a civil penalty under this chapter; and the applicant has not been convicted of a violation of this chapter since the preceding license was issued.

Sec. 14. Section 123.36, subsection 1, Code 1993, is amended by striking the subsection.

Sec. 15. Section 123.37, unnumbered paragraph 5, Code 1993, is amended by striking the unnumbered paragraph.

Sec. 16. Section 123.39, subsection 1, Code 1993, is amended to read as follows:

1. a. ~~Any~~ The administrator or the local authority may suspend a liquor control license, wine permit, or beer permit ~~issued under this chapter may, after notice in writing to the license or permit holder and reasonable opportunity for hearing, and subject to section 123.50 where applicable, be suspended~~ for a period not to exceed one year ~~or revoked~~, revoke the license or permit, or impose a civil penalty not to exceed one thousand dollars per violation. Before suspension, revocation, or imposition of a civil penalty, the licensee or permit holder shall be given written notice and an opportunity for a hearing. The administrator may appoint a member of the division or may request an administrative law judge from the department of inspections and appeals to conduct the hearing and issue a proposed decision. Upon the motion of a party to the hearing or upon the administrator's own motion, the administrator may review the proposed decision in accordance with chapter 17A. Upon review of the proposed decision, the administrator may affirm, reverse, or modify the proposed decision. A liquor control licensee, wine, or beer permittee aggrieved by a decision of the administrator may seek judicial review of the administrator's decision in accordance with chapter 17A.

b. A license or permit issued under this chapter may be suspended or revoked, or a civil penalty may be imposed on the license or permit holder by the local authority or the administrator for any of the following causes:

~~a.~~ (1) Misrepresentation of any material fact in the application for the license or permit.

~~b.~~ (2) Violation of any of the provisions of this chapter.

~~c.~~ (3) Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the local authority and the division.

~~d.~~ (4) An event which would have resulted in disqualification from receiving the license or permit when originally issued.

~~e.~~ (5) Any sale, hypothecation, or transfer of the license or permit.

~~f.~~ (6) The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under this chapter when due.

c. A criminal conviction is not a prerequisite to suspension, revocation, or imposition of a civil penalty pursuant to this section. A local authority which acts pursuant to this section or section 123.32 shall notify the division in writing of the action taken, and shall notify the licensee or permit holder of the right to appeal a suspension, revocation, or imposition of a civil penalty to the division. Civil penalties imposed and collected by the local authority under this section shall be retained by the local authority. Civil penalties imposed and collected by the division under this section shall be retained by the division.

Sec. 17. Section 123.39, subsection 4, Code 1993, is amended to reads as follows:

4. If the cause for suspension is a first offense violation of section 123.49, subsection 2, paragraph "h", ~~and the violation occurred on or after January 1, 1988,~~ the administrator or local authority shall impose a civil penalty in the amount of three hundred dollars in lieu of suspension of the license or permit. Local authorities shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the local authority. The division shall retain civil penalties collected under this paragraph if the proceeding to impose the penalty is conducted by the administrator of the division. ~~If the matter is appealed to the division's hearing board, the hearing board shall not reduce the amount of the civil penalty imposed under this paragraph if a violation of section 123.49, subsection 2, paragraph "h" is found.~~

Sec. 18. Section 123.50, subsection 3, unnumbered paragraph 1 and paragraphs a, c, and d, Code 1993, are amended to read as follows:

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

a. Upon a first conviction, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of fourteen days. However, if the conviction is for a violation of section 123.49, subsection 2, paragraph "h", ~~which occurred on or after January 1, 1988,~~ the violator's liquor control license or wine or beer permit shall not be suspended, but the violator shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under section 123.39 for a violation of section 123.49, subsection 2, paragraph "h", or this subsection will result in automatic suspension of the license or permit for a period of fourteen days.

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

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

Sec. 19. Section 123.53, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding section 8.33, civil penalties imposed and collected by the division shall not revert to the general fund of the state. The moneys from the civil penalties are appropriated for use by the division for the purposes of providing educational programs, information and publications for alcoholic beverage licensees and permittees, local authorities, and law enforcement agencies regarding the laws and rules which govern the alcoholic beverages industry, and for promoting compliance with alcoholic beverage laws and rules.

Sec. 20. Section 123.95, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

123.95 PREMISES MUST BE LICENSED — EXCEPTION AS TO CONVENTIONS AND SOCIAL GATHERINGS.

1. A person shall not allow the dispensing or consumption of alcoholic liquor, except wines and beer, in any establishment unless the establishment is licensed under this chapter or except as otherwise provided in this section. The holder of an annual class "B" liquor control license or an annual class "C" liquor control license may act as the agent of a private social host for the purpose of providing and serving alcoholic liquor, wine, and beer as part of a food catering service for a private social gathering in a private place. The holder of an annual special class "C" liquor control license shall not act as the agent of a private social host for the purpose of providing and serving wine and beer as part of a food catering service for a private social gathering in a private place. The private social host or the licensee shall not solicit donations in payment for the food or alcoholic beverages from the guests, and the alcoholic beverages and food shall be served without cost to the guests. Section 123.92 does not apply to a liquor control licensee who acts in accordance with this section when the liquor control licensee is providing and serving food and alcoholic beverages as an agent of a private social host at a private social gathering in a private place which is not on the licensed premises.

2. An applicant for a class "B" liquor control license or class "C" liquor control license shall state on the application for the license that the licensee intends to engage in catering food and alcoholic beverages for private social gatherings and the catering privilege shall be noted on the license or permit. A licensee who engages in catering food and alcoholic beverages for private social gatherings shall maintain a record on the licensed premises which includes the name and address of the host of the private social gathering, and the date for which catering was provided. The record maintained pursuant to this section shall be open to inspection pursuant to section 123.30, subsection 1, during normal business hours of the licensee.

3. However, bona fide conventions or meetings may bring their own legal liquor onto the licensed premises if the liquor is served to delegates or guests without cost. All other provisions of this chapter shall be applicable to such premises. The provisions of this section shall have no application to private social gatherings of friends or relatives in a private home or private place which is not of a commercial nature nor where goods or services may be purchased or sold nor any charge or rent or other thing of value is exchanged for the use of such premises for any purpose other than for sleeping quarters.

Sec. 21. Section 123.177, subsection 1, Code 1993, is amended to read as follows:

1. A person holding a class "A" wine permit may manufacture and sell, or sell at wholesale, wine for consumption off the premises. Sales within the state may be made only to persons holding a class "A" or "B" wine permit, and to persons holding a class "A", "B", "C" or "D" liquor control license, ~~and to persons holding a special permit issued under section 123.29, subsection 3~~. A class "A" wine permittee having more than one place of business shall obtain a separate permit for each place of business where wine is to be stored, warehoused, or sold.

Sec. 22. REPEALS. Sections 123.15 and 123.151, Code 1993, are repealed.

Sec. 23. APPEAL AFFECTED. This Act applies to administrative appeals of decisions of the administrator of the alcoholic beverages division of the department of commerce or a local authority which are filed on or after July 1, 1993.

Approved May 3, 1993

CHAPTER 92

LONG-TERM CARE ASSET PRESERVATION PROGRAM

S.F. 63

AN ACT relating to the establishment of a long-term care asset preservation program.

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

Section 1. NEW SECTION. 249F.1 LONG-TERM CARE ASSET PRESERVATION PROGRAM.

1. The Iowa long-term care asset preservation program is established to do all of the following:

a. Provide incentives for an individual to insure against the costs of providing for the individual's own long-term care.

b. Provide a mechanism for an individual to qualify for coverage of the costs of the individual's long-term care needs under the medical assistance program pursuant to chapter 249A prior to substantially exhausting the assets of the individual.

c. Assist in developing methods for increasing access to and the affordability of a long-term care policy.

d. Provide counseling services to individuals regarding planning for long-term care needs.

e. Assist in alleviating the financial burden on the state's medical assistance program by encouraging the pursuit of private long-term care payment initiatives.

2. The department of human services and the division of insurance of the department of commerce shall administer this program as provided in this chapter.

Sec. 2. NEW SECTION. 249F.2 DUTIES OF DEPARTMENTS.

1. The department of human services shall seek approval of a state plan amendment or make application to the United States department of health and human services for any necessary waivers under 42 U.S.C. § 1396n relating to providing assistance under chapter 249A.

2. The division of insurance shall adopt rules pursuant to chapter 17A for the certification of any long-term care policy or contract which, if purchased by an eligible individual, will allow such individual to retain additional assets as provided in section 249F.4. A policy certified pursuant to this section shall satisfy the definition in section 514G.4, subsection 1, and additionally shall, at a minimum, do all of the following:

a. Inform the purchaser of the availability of consumer information concerning the long-term care asset preservation program established in this chapter.

b. Provide the option of home and community-based services in addition to nursing home care.

c. Provide case management services in all home care plans.

d. Provide for inflation protection.

e. Provide for recordkeeping and an explanation of benefit reports on insurance payments which qualify for the asset adjustment under section 249F.4.

f. Provide for written reports to the division regarding the effects of this program on the amount of medical assistance payments made under chapter 249A.

3. The division of insurance shall develop and implement a plan providing information to persons who may be eligible to participate in the long-term care asset preservation program.

Sec. 3. NEW SECTION. 249F.3 ELIGIBILITY — PARTICIPATION IN PROGRAM.

An individual who elects to participate in the long-term care asset preservation program shall make application to the department of human services on a form provided by the department. The department shall find that the individual is eligible if the individual satisfies all of the following:

1. Is at least sixty-five years of age.

2. Is eligible to receive medical assistance pursuant to chapter 249A upon application of the asset adjustment.

3. Is the beneficiary of a certified long-term care policy or contract approved by the division of insurance, or is enrolled in a prepaid health care delivery plan that provides long-term care services.

Sec. 4. NEW SECTION. 249F.4 ASSET ADJUSTMENT.

1. As used in this chapter, "asset adjustment" means an additional exemption in the amount of assets an individual who purchases a qualified long-term care policy or contract and who meets the requirements of section 249F.3 may retain for purposes of determining eligibility for long-term care services under chapter 249A equal to the benefit amount actually paid out under the individual's policy or contract.

2. The department of human services shall make an asset adjustment for an individual who is qualified pursuant to section 249F.3 and who purchases a qualified long-term care policy. The asset adjustment is available to the individual after the benefits of the long-term care policy have been applied to the cost of long-term care as required in subsection 1.

Approved May 4, 1993

CHAPTER 93

CHILDREN EXPOSED TO ILLEGAL DRUGS

S.F. 117

AN ACT relating to children who are exposed to illegal drugs by including such children under the definitions of a child in need of assistance and child abuse under certain circumstances and by amending the title and scope and responsibilities of the council on chemically exposed infants to include children.

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

Section 1. Section 232.2, subsection 6, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. o. In whose body there is an illegal drug present as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian.

Sec. 2. Section 232.68, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. An illegal drug is present in a child's body as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian.

Sec. 3. Section 232.77, subsection 2, Code 1993, is amended to read as follows:

2. If a health practitioner discovers in a child ~~under one year of age~~ physical or behavioral symptoms of the effects of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives thereof, which were not prescribed by a health practitioner, or if the health practitioner has determined through examination of the natural mother of the child that the child was exposed in utero, the health practitioner may perform or cause to be performed a medically relevant test, as defined in section 232.73, on the child. The practitioner shall report any positive results of such a test on the child to the department~~, unless the natural mother has shown good faith in seeking appropriate care and treatment~~. The department shall begin an investigation pursuant to section 232.71 upon receipt of such a report. ~~The positive result shall constitute a showing of probable cause under section 232.71, subsection 3, but shall not be used in any criminal prosecution of the natural mother of the child, and shall not represent grounds for a determination of child abuse.~~ A positive test result shall not be used for the criminal prosecution of a parent for acts and omissions resulting in intrauterine exposure of the child to an illegal drug.

Sec. 4. Section 235C.1, Code 1993, is amended to read as follows:

235C.1 COUNCIL CREATED — PURPOSE.

A council on chemically exposed infants and children is established as a subcommittee of the committee on maternal and child health of the community health division of the Iowa department of public health. The purpose of the council is to help the state develop and implement policies to reduce the likelihood that infants will be born chemically exposed, and to assist those who are born chemically exposed to grow and develop in a safe environment.

As used in this chapter, a "chemically exposed infant or child" is an infant or child who shows evidence of exposure to or the presence of alcohol, cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs or combinations or derivatives thereof which were not prescribed by a health practitioner.

Sec. 5. Section 235C.2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The council on chemically exposed infants and children shall be composed of the following members:

Sec. 6. Section 235C.3, subsection 1, Code 1993, is amended to read as follows:

1. DATA COLLECTION. The council shall assemble relevant materials regarding the extent to which infants born in Iowa are chemically exposed, the services currently available to meet the needs of chemically exposed infants ~~born who are chemically exposed~~ and children, and the costs incurred in caring for chemically exposed infants ~~born who are chemically exposed~~ and children, including both costs borne directly by the state and costs borne by society.

Sec. 7. Section 235C.3, subsection 3, Code 1993, is amended to read as follows:

3. IDENTIFICATION. The council shall develop recommendations regarding state programs or policies to increase the identification of chemically exposed infants and children.

Sec. 8. Section 235C.3, subsection 4, unnumbered paragraph 1, and paragraph a, Code 1993, are amended to read as follows:

The council shall seek to improve effective treatment services within the state for chemically exposed infants and children. As part of this responsibility, the council shall make recommendations which shall include, but are not limited to, the following:

a. Identification of programs available within the state for serving chemically exposed infants, children, and their families.

Sec. 9. Section 235C.3, subsection 5, Code 1993, is amended to read as follows:

5. CARE AND PLACEMENT. The council shall work with the department of human services to expand appropriate placement options for chemically exposed infants and children who have been abandoned by their parents or cannot safely be returned home. As part of this responsibility, the council shall do all of the following:

a. Assist the department of human services in developing rules to establish specialized foster care services that can attract foster parents to care for chemically exposed infants and children.

b. Identify additional services, such as therapeutic day care services, that may be needed to effectively care for chemically exposed infants and children.

c. Review the need for residential programs designed to meet the needs of chemically exposed infants and children.

As an additional part of the responsibility, the council shall determine whether a problem exists with respect to substance abuse treatment providers and physicians discriminating against pregnant women in providing treatment or prenatal care.

Approved May 4, 1993

CHAPTER 94

ELECTRIC COOPERATIVE ASSOCIATION MEMBERSHIPS

S.F. 140

AN ACT to allow an electric generation and transmission cooperative to establish classes of memberships.

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

Section 1. NEW SECTION. 499.14A ELECTRIC COOPERATIVE ASSOCIATION MEMBERSHIPS.

An electric generation and transmission cooperative association may have one or more classes of members. Qualifications, requirements, methods of acceptance, terms, conditions, termination, and other incidents of membership shall be set forth in the bylaws of the association. An electric utility as defined in section 476.22 and a person who generates or transmits electric power for sale at wholesale to an electric utility may become a member in accordance with the bylaws.

Approved May 4, 1993

CHAPTER 95

ACCESSIBILITY STANDARDS FOR PERSONS WITH DISABILITIES

S.F. 174

AN ACT concerning accessibility standards for persons with disabilities and making penalties applicable.

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

Section 1. Section 103A.7, subsection 5, Code 1993, is amended to read as follows:

5. The accessibility and use by ~~physically handicapped~~ persons with disabilities and elderly persons, of buildings, structures and facilities which are constructed and intended for use by the general public. The rules shall be consistent with federal standards for building accessibility.

Sec. 2. Section 104A.1, Code 1993, is amended to read as follows:

104A.1 INTENT OF CHAPTER.

It is the intent of this chapter that standards and specifications are followed in the construction of public and private buildings and facilities which are intended for use by the general public to ensure that these buildings and facilities are accessible to and functional for ~~the physically handicapped~~ persons with disabilities.

Sec. 3. Section 104A.2, Code 1993, is amended to read as follows:

104A.2 APPLICABILITY.

The standards and specifications adopted by the state building code commissioner and as set forth in this chapter shall apply to all public and private buildings and facilities, temporary and permanent, used by the general public. The specific occupancies and minimum extent of accessibility shall be in accordance with the conforming standards set forth in section 104A.6. ~~Notwithstanding the standards set forth in section 104A.6, in~~ In every covered multiple-dwelling-unit building containing ~~twelve~~ four or more individual dwelling units the requirements of this chapter ~~which apply to apartments shall be met by at least one dwelling unit or by at least ten percent of the dwelling units, whichever is the greater number, on each of the floor levels in the building which are accessible to the physically handicapped. Any fraction five-tenths or below shall be rounded to the next lower whole unit~~ and those adopted by the state building code commissioner shall be met.

Sec. 4. Section 104A.6, Code 1993, is amended to read as follows:

104A.6 CONFORMING STANDARDS.

~~In addition to complying with the standards and specifications set forth in sections 104A.3 and 104A.4, the~~ The authority responsible for the construction of any building or facility covered by section 104A.2 shall conform with rules ~~promulgated~~ adopted by the state building code commissioner as provided in section 103A.7.

Sec. 5. NEW SECTION. 104A.6A ENFORCEMENT.

This chapter is subject to enforcement as provided in chapter 103A.

Sec. 6. Section 216C.1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. To encourage participation by the disabled, it is the policy of this state to ensure compliance with federal requirements concerning persons with disabilities.

Sec. 7. Section 216C.9, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Curbs constructed that are subject to the requirements of this section shall comply with federal requirements concerning persons with disabilities.

Sec. 8. Sections 104A.3, 104A.4, and 104A.7, Code 1993, are repealed.

Approved May 4, 1993

CHAPTER 96

THRIFT CERTIFICATES

S.F. 180

AN ACT relating to thrift certificates and their exemption from certain filing and registration requirements.

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

Section 1. Section 536A.22, Code 1993, is amended to read as follows:

536A.22 THRIFT CERTIFICATES.

Licensed industrial loan companies may sell senior debt to the general public in the form of thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness. The total amount of such thrift certificates, installment thrift certificates, certificates of indebtedness, promissory notes or similar evidences of indebtedness outstanding and in the hands of the general public shall not at any time exceed ten times the total amount of capital, surplus, undivided profits and subordinated debt that gives priority to such securities of the issuing industrial loan company. The sale of such securities ~~shall be~~ is subject to the provisions of chapter 502 and rules adopted by the superintendent of banking pursuant to chapter 17A, and shall not be construed to be exempt by reason of the provisions of section 502.202, subsection 10, except that the sale of thrift certificates or installment thrift certificates which are redeemable by the holder either upon demand or within a period not in excess of ~~one hundred eighty days~~ five years are exempt from sections 502.201 and 502.602.

Approved May 4, 1993

CHAPTER 97

IOWA INVESTS PROGRAM — WELFARE REFORM AND RELATED MATTERS

S.F. 268

AN ACT creating an Iowa invests program and providing related provisions including applicability provisions, and effective dates.

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

DIVISION I

IOWA INVESTS — IOWA COUNCIL ON HUMAN INVESTMENT

Section 1. NEW SECTION. 8A.2 IOWA COUNCIL ON HUMAN INVESTMENT.

An Iowa council on human investment is established to define a human service agenda for the state and to propose benchmarks for the strategic goals of the state identified by the council. The governor or the governor's designee shall be a member and chairperson of the council and the council shall consist of eight other members appointed by the governor, subject to confirmation by the senate. The appointments shall be made in a manner so that all of the state's congressional districts are represented along with the ethnic, cultural, social, and economic diversity of the state. Terms of office of members other than the governor are three years. Council members shall be reimbursed for actual and necessary expenses incurred in performance of their duties. Members may also be eligible to receive compensation as provided in section 7E.6. The governor shall assign staffing services to the council which may include the staff identified by the director of the department of management. The council shall do all of the following:

1. Develop an overall long-term human investment strategy for the state including broad policy goals and benchmarks which are goal statements reflecting specific results or achievements in public policy at a particular time in the future. The strategy shall be developed through a process involving input from and consensus-building with a broad cross-section of the state's population. Public hearings shall be held by the council in developing the strategy and benchmarks. The human investment strategy and benchmarks shall be submitted to the governor and the general assembly for a determination as to how the strategy and benchmarks will be set and achieved.

2. Develop an Iowa human investment budget and accounting model which provides a financial weighting of human investments. The budget and accounting model shall provide a means to reflect public and private investments in the skills and employability of Iowans. It is anticipated that the accounting system will indicate that human investments will generate returns in excess of the investments. The council shall implement the model on a pilot project basis and report annually concerning the model and the pilot project to the governor, general assembly, and the public.

3. Study the potential for the state to appropriate moneys according to the highest return on human investment. The council shall recommend to the governor and the general assembly a method for fully implementing the human investment budget and accounting model developed pursuant to subsection 2. The model shall provide for incentives for state agencies to utilize appropriations in a manner in order to achieve the highest returns on human investments.

4. Develop and apply return on human investment accounting standards. The council shall monitor state human investments according to the standards it applies and regularly report to the governor, general assembly, and public concerning actual returns on human investment.

5. Advocate for regulatory and legislative initiatives for decategorization of funding and deregulation to improve human investment.

6. Educate the public, community agencies, and the general assembly concerning human investment principles and practices.

7. Conduct customer satisfaction surveys of the users of public services and utilize the information from the surveys in establishing returns on human investments and determining the effectiveness of the public programs.

Sec. 2. INITIAL APPOINTMENTS. The governor shall make the initial appointments as follows to the Iowa council on human investment created in section 8A.2:

1. Three members to a one-year term.
2. Three members to a two-year term.
3. Two members to a three-year term.

DIVISION II
WELFARE REFORM

Sec. 3. WELFARE REFORM INITIATIVE. A welfare reform initiative is established involving the federal-state aid to dependent children program administered under chapter 239 and the federal-state job opportunities and basic skills (JOBS) program implemented under chapter 249C. The purpose of the initiative is to replace welfare provisions which encourage dependency with incentives for employment and self-sufficiency. The initiative includes specific provisions for work-and-earn incentives and for involving participants in family investment agreements. These provisions are expected to support individuals in making a transition from welfare to employment, to encourage savings, and to strengthen family stability.

The department of human services shall submit a waiver request or requests to the United States department of health and human services as necessary for federal authorization to implement the policy changes in the aid to dependent children, child care, and JOBS programs provided in this section. The department may submit a waiver request or requests to the United States department of agriculture to make changes in the federal food stamp program to correspond with the policy changes provided in this section. For the purposes of this section, the term "recipient" has the meaning provided in section 239.1 and the term "individual" means

a recipient, applicant, or other person whose income must be considered by the department. The welfare reform initiative shall include all of the following provisions:

1. Implementation of the following initiatives to encourage a recipient of aid to dependent children to make a transition to employment:

a. If an individual's earned income is considered by the department, the individual shall be allowed a work expense deduction equal to 20 percent of the earned income. The work expense deduction is intended to include all work-related expenses other than child day care. These expenses shall include but are not limited to all of the following: taxes, transportation, meals, uniforms, and other work-related expenses. However, the work expense deduction shall not be allowed for an individual who is subject to a penalty in accordance with administrative rules for failure to comply with program requirements.

b. If an individual's earned income is considered by the department, the individual shall be allowed a work-and-earn incentive. The incentive shall be equal to 50 percent of the amount of earned income remaining after all other deductions are applied. The department shall disregard the incentive amount when considering the earned income available to the individual. The incentive shall not have a time limit. The incentive shall replace the current time-limited incentive which provides for disregarding $30 plus one-third of the earned income. The work-and-earn incentive shall not be withdrawn as a penalty for failure to comply with program requirements.

c. A family with a stepparent shall be allowed a child day care deduction for any children of the stepparent or the parent subject to the limits provided in applicable administrative rules.

d. If an individual begins employment but was unemployed at least 12 months before beginning employment and timely reports the earnings from the employment, the earnings shall be subject to an income disregard. This income disregard shall apply in determining the individual's eligibility and grant levels under the aid to dependent children program during the individual's first four months of employment. To be eligible for the income disregard, the employment must commence following the date of the individual's application for aid to dependent children. The department shall adopt rules defining the term "unemployed" for the purposes of this paragraph. The income disregard shall not be withdrawn as a penalty for failure to comply with program requirements.

e. If an individual has timely reported an absence of income to the department, consideration of the individual's income shall cease beginning in the first month the income is absent. However, this provision shall not apply to an individual who has quit employment without good cause as defined in administrative rules.

f. Interest income shall be disregarded.

g. A determination of eligibility for the aid to dependent children unemployed parent program shall not include consideration of either parent's work history or which parent earned more during the 24 months prior to application for assistance under the program. The determination of eligibility shall not include consideration of either parent's number of hours of employment except to establish the date assistance would begin in accordance with administrative rules. However, both parents must participate in a family investment agreement required by this section and in work and training activities unless good cause not to participate is established in accordance with administrative rules. The department shall continue to deny eligibility for the unemployed parent program under provisions of section 239.2, subsection 3, paragraph "b" involving labor disputes or if either parent refuses to apply for or draw unemployment benefits.

h. The department shall disregard as income any moneys an individual deposits in an individual development account established pursuant to this Act.

2. Implementation of the following initiatives to encourage a recipient of aid to dependent children to accumulate assets and savings:

a. Revision in the current limitation involving consideration of the quantity and value of motor vehicles. In implementing this revision, the department shall disregard the first $3,000 in equity value of a motor vehicle. Beginning July 1, 1994, and continuing in succeeding fiscal

years, the motor vehicle equity value disregarded by the department shall be increased by the latest increase in the consumer price index for used vehicles during the previous state fiscal year. This disregard shall be implemented for each adult and working teenager in a family. The amount of a motor vehicle's equity in excess of $3,000 shall apply to the resource limitation established in paragraph "b".

b. The resource limitation for a family applying for aid to dependent children shall be $2,000. The resource limitation for a recipient family shall be $5,000.

c. The department shall disregard not more than $10,000 of a self-employed individual's tools of the trade or capital assets in considering the individual's resources.

d. The department shall disregard any interest income and the balance of an individual development account established pursuant to this Act in considering an individual's resources.

3. The department shall establish a policy regarding the implementation of family investment agreements which limits the period of eligibility for aid to dependent children based upon the requirements of an individual family's plan for self-sufficiency. The policy shall require an individual family's plan to be specified in a family investment agreement between the family and the department. The department shall adopt rules to administer the policy. The components of the policy shall include but are not limited to all of the following:

a. PARTICIPATION. An individual shall be subject to a family investment agreement if the individual is a parent living in a home with a child for whom aid to dependent children is applied for or is provided. An individual must enter into a family investment agreement with the department unless any of the following conditions exists:

(1) The individual is a parent of a child who is less than six months of age. If both parents are in the child's home, this exception shall apply to only one parent. The department may require an individual who is a teenage parent with a child who is less than six months of age to participate in high school completion activities.

(2) The individual is working 30 hours or more per week.

(3) The individual is completely unable to participate in any option due to a disability.

b. AGREEMENT OPTIONS. A family investment agreement shall require an individual to participate in one or more of the following options. An individual's level of participation in one or more of the options shall be equivalent to the level of commitment required for full-time employment or shall be significant so as to move toward that level. The department shall adopt rules for each option defining requirements and establishing assistance provisions for child care and transportation. The options shall include but are not limited to all of the following:

(1) Full-time or part-time employment.

(2) Active job search.

(3) Participation in the JOBS program.

(4) Participation in other education or training programming.

(5) Participation in a family development and self-sufficiency grant program under section 217.12.

(6) Work experience placement.

(7) Unpaid community service. Community service shall be authorized in any nonprofit association which has been determined under section 501(c)(3) of the Internal Revenue Code to be exempt from taxation or in any government agency. Upon request, the department shall provide a listing of potential community service placements to an individual, however, an individual shall locate the individual's own placement and perform the number of hours required by the agreement. The individual shall file a monthly report with the department which is signed by the director of the community service placement verifying the community service hours performed by the individual during that month. The department shall develop a form for this purpose.

(8) If the individual participates in at least one other option, any other arrangement which would strengthen the individual's ability to be a better parent, including but not limited to participation in a parenting education program.

c. PENALTIES. If an individual fails to comply with the provisions of the individual's family investment agreement during the period of the agreement, JOBS program penalties shall be applied.

d. COMPLETION OF AGREEMENT. Upon the completion of the terms of the agreement, aid to dependent children assistance to a recipient covered by the agreement shall cease or be reduced in accordance with administrative rules. The department shall adopt rules to implement this paragraph and to determine when a family is eligible to reenter the aid to dependent children program.

e. CONTRACTS. The department of human services may contract with the department of employment services, department of economic development, or any other entity to provide services relating to a family investment agreement.

f. INFORMATION DISCLOSURE. The department may disclose confidential information described in section 217.30, subsection 1, to other state agencies or to any other entity which is not subject to the provisions of chapter 17A and is providing services to recipients who are subject to a family investment agreement, if necessary in order for the recipients to receive the services. The department shall adopt rules establishing standards for disclosure of confidential information if disclosure is necessary in order for recipients to receive services.

4. Implementation of the following provisions involving child day care assistance available to individuals who no longer receive aid to dependent children due to employment:

a. Extension of the eligibility period for transitional child care under section 239.21 from 12 months to 24 months.

b. The department shall automatically determine an individual's eligibility for other child day care assistance if the individual is not eligible for transitional child care or eligibility for transitional child care is exhausted.

5. If an individual received aid to dependent children in another state within one year of applying for assistance in this state the requirements of this subsection shall apply. Using the family size for which the individual's eligibility is determined, the department shall compare the standard grant payment amount the individual would be paid in the other state with the standard grant payment amount the individual would be paid in this state. For the period of one year from the date of applying for assistance in this state, the individual's grant shall be the lesser of the two amounts. The provisions of this subsection shall not apply to an individual who was previously a resident of this state before living in another state and receiving aid to dependent children or to an individual who has moved to this state to be near the individual's parent or sibling.

Sec. 4. CONTINGENCY PROVISION. The waiver request or requests submitted by the department of human services pursuant to section 3 of this Act to the United States department of health and human services shall be to apply the provisions of section 3 statewide. If federal waiver approval of a provision of section 3 of this Act is granted, the department of human services shall implement the provision in accordance with the federal approval. If a provision of this Act is in conflict with a provision of chapter 239 or 249C, notwithstanding that provision in chapter 239 or 249C, the provision of this Act shall be implemented and the department shall propose an amendment to chapter 239 or 249C to resolve the conflict.

Sec. 5. 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 the provisions of this division of this Act and the rules shall be 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. 6. APPLICABILITY. If federal approval is granted, approved provisions of section 3, subsections 1, 2, 4, and 5, of this Act shall be implemented beginning July 1, 1993, and approved provisions of section 3, subsection 3 of this Act shall be implemented January 1, 1994, subject to the availability of funding.

Sec. 7. EFFECTIVE DATE. Sections 3 through 5 of this Act, being deemed of immediate importance, take effect upon enactment.

DIVISION III
JOBS PROGRAM INFORMATION

Sec. 8. Section 217.30, subsection 4, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The department may disclose information described in subsection 1, to other state agencies or to any other person who is not subject to the provisions of chapter 17A and is providing services to recipients under chapter 239 who are participating in the federal-state job opportunities and basic skills program administered under chapter 249C, if necessary for the recipients to receive the services.

DIVISION IV
MENTORING

Sec. 9. NEW SECTION. 239.22 MENTORING.

A statewide mentoring program is established to recruit, screen, train, and match former recipients and other volunteers with current recipients in a mentoring relationship. The commission on the status of women of the department of human rights shall implement the program in collaboration with the departments of human services, economic development, employment services, and education. The availability of the program is subject to the funding appropriated for the purposes of the program.

Sec. 10. APPLICABILITY. For the fiscal year beginning July 1, 1993, and ending June 30, 1994, the mentoring program created in section 9 of this Act shall not be implemented statewide by the commission on the status of women but shall be implemented as a pilot program in a county or counties chosen by the commission.

DIVISION V

Sec. 11. IOWA WORKS.

1. The department of human services, in cooperation with the state human investment policy council or similar policy development group, shall analyze the welfare reform initiative known as "Iowa Works", including but not limited to all of the following components of the initiative:

a. The development of a guaranteed minimum income plan for persons who agree to participate in work training and employment, and who agree to transfer all welfare benefits and income to the state.

b. The provision of investment accounts to participating families, which become available when families leave the program and which can only be used for long-term investment purposes.

c. The decategorization of assistance programs including but not limited to aid to dependent children and food stamps.

d. The development of partnerships with local communities to provide the nonfederal share of JOBS funds.

e. The waiver of employers' unemployment taxes associated with hiring workers who participate in the initiative.

2. The components of the initiative described in subsection 1 shall be analyzed for both policy and fiscal implications and the analysis shall be completed by March 1, 1994. In addition, the department shall contact the United States department of health and human services and other appropriate federal agencies and departments to determine whether the initiative or portions of the initiative may be acceptable as a waiver to current federal regulations and policy. The analysis and any correspondence between the department and the federal government shall be submitted to the chairpersons and ranking members of the joint appropriations subcommittee on human services and the standing committees on appropriations of the senate and

house of representatives at the time the analysis is completed or at the time the correspondence is sent or received. If the department determines that any portion of the initiative would be acceptable to the federal government and implementation would not require any additional state funding, the department may submit the initiative or portions of the initiative as part of other waiver requests to the federal government.

3. The department, in cooperation with the state human investment policy council or similar policy development group, shall continue to evaluate grants or waiver opportunities for other welfare reform initiatives such as child support assurance. The department may implement initiatives which are beneficial to the public if implementation does not require any additional state funding.

DIVISION VI
WORKFORCE DEVELOPMENT

Sec. 12. NEW SECTION. 84B.1 WORKFORCE DEVELOPMENT CENTERS.

The departments of employment services and economic development, in consultation with the departments of education, elder affairs, human services, and human rights shall establish guidelines for colocating state and federal employment and training programs in centers providing services at the local level. The centers shall be known as workforce development centers. The departments shall also jointly establish an integrated management information system for linking the programs within a local center to the same programs within other local centers and to the state. The guidelines shall provide for local design and operation within the guidelines. The core services available at a center shall include but are not limited to all of the following:

1. INFORMATION. Provision of information shall include labor exchange and labor market information as well as career guidance and occupational information. Training and education institutions which receive state or federal funding shall provide to the centers consumer-related information on their programs, graduation rates, wage scales for graduates, and training program prerequisites. Information from local employers, unions, training programs, and educators shall be collected in order to identify demand industries and occupations. Industry and occupation demand information should be published as frequently as possible and be made available through centers.

2. ASSESSMENT. Individuals shall receive basic assessment regarding their own skills, interests, and related opportunities for employment and training. Assessments are intended to provide individuals with realistic information in order to guide them into training or employment situations. The basic assessment may be provided by the center or by existing service providers such as community colleges or by a combination of the two.

3. TRAINING ACCOUNTS. Training accounts may be established for both basic skill development and vocational or technical training. There shall be no training assistance or limited training assistance in those training areas a center has determined are oversupplied or are for general life improvement.

4. REFERRAL TO TRAINING PROGRAMS OR JOBS. Based upon individual assessments, a center shall provide individuals with referrals to other community resources, training programs, and employment opportunities.

5. JOB DEVELOPMENT AND JOB PLACEMENT. A center shall be responsible for job development activities and job placement services. A center shall seek to create a strong tie to the local job market by working with both business and union representatives.

Sec. 13. NEW SECTION. 258.18 SCHOOL-TO-WORK TRANSITION SYSTEM.

The departments of education, employment services, and economic development shall develop a statewide school-to-work transition system in consultation with local school districts, community colleges, and labor, business, and industry interests. Initially the development of the system shall focus upon youth apprenticeship and as development continues shall incorporate additional recommendations regarding expansion of other school-to-work opportunities for high school youths. The system shall be designed to attain the following objectives:

1. Motivate youths to stay in school and become productive citizens.

2. Set high standards by promoting higher academic performance levels.

3. Connect work and learning so that the classroom is linked to worksite learning and experience.

4. Ready students for work in order to improve their prospects for immediate employment after leaving school on paths that provide significant opportunity to continued education and career development.

5. Engage employers and workers by promoting their participation in the education of youth in order to ensure the development of a skilled, flexible, entry-level workforce.

6. Provide a framework to position the state to access federal resources for state youth apprenticeship systems and local programs.

DIVISION VII
INDIVIDUAL DEVELOPMENT ACCOUNTS

Sec. 14. Section 422.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 28. If the taxpayer is owner of an individual development account certified under chapter 541A at any time during the tax year the following adjustments shall be made:

a. Subtract, to the extent included, all of the following:

(1) Contributions made to the account by persons and entities, other than the taxpayer, as authorized in chapter 541A.

(2) The amount of any savings refund authorized under section 541A.3, subsection 1.

(3) Earnings from the account to the extent not withdrawn.

b. Add, to the extent not included, all of the following:

(1) Earnings from the account which are withdrawn.

(2) Amounts withdrawn which are not authorized by section 541A.2, subsection 4, paragraphs "a" and "b" and which are attributable to contributions by persons and entities, other than the taxpayer, as provided in section 541A.2, subsection 4.

(3) If the account is closed, amounts received by the taxpayer which have not previously been taxed under this division, except amounts that are redeposited in another individual development account, or the state human investment reserve pool as provided in section 541A.2, subsection 5, and including the total amount of any savings refund authorized under section 541A.3.

Sec. 15. Section 450.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. On property in an individual development account in the name of the decedent that passes to another individual development account, up to ten thousand dollars, or the state human investment reserve pool created in section 541A.4. For purposes of this subsection, "individual development account" means an account that has been certified as an individual development account pursuant to chapter 541A.

Sec. 16. NEW SECTION. 541A.1 DEFINITIONS.

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

1. "Account holder" means an individual who is the owner of an individual development account.

2. "Administrator" means the executive branch agency selected by the governor to administer individual development accounts.

3. "Charitable contributor" means a nonprofit association described in section 501(c)(3) of the Internal Revenue Code which makes a deposit to an individual development account and which is exempt from taxation under section 501(a) of the Internal Revenue Code.

4. "Federal poverty level" means the first poverty income guidelines published in the calendar year by the United States department of health and human services.

5. "Financial institution" means a financial institution approved by the administrator as an investment mechanism for individual development accounts.

6. "Individual contributor" means an individual who makes a deposit to an individual development account and is not the account holder or a charitable contributor.

7. "Individual development account" means a financial instrument which is certified to have the characteristics described in section 541A.2 by the operating organization.

8. "Operating organization" means an agency selected by the administrator for involvement in operating individual development accounts directed to a specific target population.

9. "Reserve pool" means the state human investment reserve pool under the authority of the administrator created in section 541A.4.

10. "Source of principal" means any of the sources of a deposit to an individual development account under section 541A.2, subsection 2.

Sec. 17. NEW SECTION. 541A.2 INDIVIDUAL DEVELOPMENT ACCOUNTS.

A financial instrument known as an individual development account is established. An individual development account shall have all of the following characteristics:

1. The account is kept in the name of an individual account holder.

2. Deposits made to an individual development account shall be made in any of the following manners and are subject to the indicated conditions:

a. Deposits made by the account holder.

b. Deposits of a savings refund authorized under section 541A.3, subsection 1 due the account holder because of the account holder's deposits in the account holder's account.

c. Deposits of individual development account moneys which are transferred from another individual account holder.

d. A deposit made on behalf of the account holder by an individual or a charitable contributor. This type of deposit may include but is not limited to moneys to match the account holder's deposits. A deposit made under this paragraph shall be held in trust for the account holder and shall only be used to earn income in the account or to be withdrawn by the account holder for a purpose provided in subsection 4.

3. The account earns income.

4. During a calendar year, an account holder may withdraw without penalty from the account holder's account the sum of the following:

a. With the approval of the operating organization, amounts withdrawn for any of the following approved purposes:

(1) Educational costs at an accredited institution of higher education.

(2) Training costs for an accredited or licensed training program.

(3) Purchase of a primary residence.

(4) Capitalization of a small business start-up. Amounts withdrawn for purposes of this paragraph shall be charged to the source of principal on a prorated basis. Moneys transferred from another individual development account shall be considered to be a deposit made by the account holder for purposes of charges to the source of principal.

b. At the adult account holder's discretion any income earned by the account. An account holder who is ten or more but less than eighteen years of age may withdraw any income earned by the account with the approval of the account holder's parent or guardian and of the operating organization. If the account holder is less than ten years of age, any income earned by the account may be withdrawn by the account holder's parent or guardian with the approval of the operating organization.

c. At the account holder's discretion, if the account holder is at least fifty-nine and one-half years of age, any amount.

5. If an account holder is less than eighteen years of age, moneys shall not be withdrawn from the holder's account unless the withdrawal is authorized under subsection 4. If an account holder is eighteen or more years of age, any amount of the adjusted account holder deposits withdrawn during a calendar year which is not authorized under subsection 4, is subject to a penalty of fifteen percent. In addition, if at any time the cumulative amount withdrawn by the account holder over the life of the account that is not authorized under subsection 4 exceeds fifty percent of the amount of the adjusted account holder deposits, the contributions made

by a charitable or individual contributor held in trust in the account holder's account shall be removed from the account and redeposited in another individual development account or the reserve pool as directed by the contributor and deposits made by the state of a savings refund authorized under section 541A.3, subsection 1 shall be withdrawn and deposited in the reserve pool. The amount of the adjusted account holder deposits is the amount remaining after subtracting from the cumulative moneys deposited by the account holder all amounts withdrawn pursuant to subsection 4, paragraph "a". At the time a charitable or individual contributor contributes moneys to an account the contributor shall indicate the contributor's directions for disposition of moneys which are removed. If the designated choice of the contributor does not exist the contributed moneys shall be withdrawn and deposited in the reserve pool.

6. Penalty amounts collected pursuant to subsection 5 shall be deposited in the reserve pool.

7. An adult account holder may transfer all or part of the assets the adult account holder has deposited in the account to any other account holder's account. However, an account holder who is less than eighteen years of age is prohibited from transferring account assets to any other account holder. Moneys contributed by a charitable or individual contributor are not subject to transfer except as authorized by the contributor. Amounts transferred in accordance with this subsection are not subject to a penalty.

8. If approved by the federal government, moneys in an individual development account and any earnings on the moneys shall not be considered by the department of human services for determining the eligibility of an individual under the family investment program under chapter 239 or the work and training program under chapter 249C.

9. In the event of an account holder's death, the account may be transferred to the ownership of a contingent beneficiary or to the individual development account of another account holder. An account holder shall name contingent beneficiaries or transferees at the time the account is established and a named beneficiary or transferee may be changed at the discretion of the account holder. If the named beneficiary or transferee is deceased or otherwise cannot accept the transfer, the moneys shall be transferred to the reserve pool.

10. The total amount of sources of principal which may be in an individual development account shall be limited to fifty thousand dollars.

Sec. 18. NEW SECTION. 541A.3 INDIVIDUAL DEVELOPMENT ACCOUNTS — REFUND AND TAX PROVISIONS.

All of the following state tax provisions shall apply to an individual development account:

1. Payment by the state of a savings refund on amounts of up to two thousand dollars per calendar year that an account holder deposits in the account holder's account. Moneys transferred to an individual development account from another account shall not be considered an account holder deposit for purposes of determining a savings refund. Payment shall be made directly to the account in the most appropriate manner as determined by the administrator. The state savings refund shall be the indicated percentage of the amount deposited:

a. For an account holder with a household income, as defined in section 425.17, subsection 6, which is less than one hundred fifty percent of the federal poverty level, twenty percent.

b. For an account holder with a household income which is one hundred fifty percent or more but less than one hundred sixty percent of the federal poverty level, eighteen percent.

c. For an account holder with a household income which is one hundred sixty percent or more but less than one hundred seventy percent of the federal poverty level, sixteen percent.

d. For an account holder with a household income which is one hundred seventy percent or more but less than one hundred eighty percent of the federal poverty level, fourteen percent.

e. For an account holder with a household income which is one hundred eighty percent or more but less than one hundred ninety percent of the federal poverty level, twelve percent.

f. For an account holder with a household income which is one hundred ninety percent or more but less than two hundred percent of the federal poverty level, ten percent.

g. For an account holder with a household income which is two hundred percent or more of the federal poverty level, zero percent.

2. Income earned by an individual development account is not subject to tax until withdrawn.

3. Amounts transferred between individual development accounts are not subject to state tax.

4. The administrator shall work with the United States secretary of the treasury and the state's congressional delegation as necessary to secure an exemption from federal taxation for individual development accounts and the earnings on those accounts. The administrator shall report annually to the governor and the general assembly concerning the status of federal approval.

5. The administrator shall coordinate the filing of claims for savings refunds authorized under subsection 1, between account holders, operating organizations, and the department of revenue and finance. Claims approved by the administrator may be paid by the department of revenue and finance to each account or for an aggregate amount for distribution to the accounts in a particular financial institution, depending on the efficiency for issuing the refunds. Claims shall be initially filed with the administrator on or before a date established by the administrator.

Sec. 19. NEW SECTION. 541A.4 INDIVIDUAL DEVELOPMENT ACCOUNT — PILOT PHASE.

A state human investment reserve pool is created in the state treasury under the authority of the administrator. The governor shall name an executive branch agency as administrator to have authority over the reserve pool. Interest on moneys in the reserve pool shall remain in the reserve pool and notwithstanding sections 8.33 and 8.39, moneys in the reserve pool are not subject to reversion or transfer. Moneys in the reserve pool shall be used for administrative expenses of the administrator. The administrator shall perform all of the following duties or may delegate the performance of the duties to a suitable entity in administering the individual development accounts:

1. For the five-year pilot phase period beginning March 1, 1994, and ending February 28, 1999, the total number of individual development accounts shall be limited to ten thousand accounts, with not more than five thousand accounts in the first calendar year of the period, and to individuals with a household income which does not exceed two hundred percent of the federal poverty level. The administrator shall ensure that the family income status of account holders at the time an account is opened proportionately reflects the distribution of the household income status of the state's population up to two hundred percent of the federal poverty level.

2. Issue a request for proposals for operating organizations to be involved with the operation of individual development accounts on behalf of a specific target population. The administrator shall determine the review criteria used to select operating organizations. The initial review criteria used to evaluate organizations' proposed projects and requirements associated with operating organizations shall include but are not limited to all of the following:

a. Provision of a safe and secure investment mechanism for the individual development accounts utilizing a financial institution approved by the administrator.

b. The proposed project has a strong relationship to goals established by other initiatives deemed a priority by the administrator.

c. The proposed project links the making of an account holder's contributions to an individual development account with other services or outcomes identified by the operating organization in the proposal. The proposed project includes mechanisms for the operating organization to monitor and enforce the identified outcomes and services.

d. The operating organization is capable of performing the project as proposed. Minimum capabilities shall include an ability to provide financial counseling, familiarity and ability to work with the proposed target population, and a strong record of successful management.

e. The operating organization proposes to provide a significant amount of matching funds for individual development accounts.

f. The proposal includes a monitoring and evaluation plan for certifying the proposed project's outcomes.

g. The responsibilities of an operating organization shall include but are not limited to all of the following:

(1) Certifying that a financial instrument is an individual development account based upon its having the characteristics described in section 541A.2.

(2) Certifying the income status and the amount of contributions to an individual development account by an account holder during a tax year which are eligible for a savings refund authorized under section 541A.3, subsection 1.

(3) Calculating the adjusted contribution principal amounts for the account holder, state, and individual and charitable contributors as required for purposes of section 541A.2, subsections 4 and 5.

3. Utilizing guidelines established in law for this purpose, the administrator shall contract for an independent evaluation of the implementation of the individual development accounts. The evaluation shall consider the following: implementation and process used for the implementation, program impact, and financial effectiveness.

Sec. 20. EFFECTIVE DATE AND APPLICABILITY PROVISIONS. Sections 14 and 15 of this Act are effective January 1, 1994. Section 14 applies to tax years beginning on or after January 1, 1994. Section 15 applies to decedents dying on or after January 1, 1994.

DIVISION VIII
IOWA NETWORK INITIATIVE

Sec. 21. IOWA NETWORK INITIATIVES. The Wallace technology transfer foundation, in cooperation with the department of economic development, shall establish a statewide initiative to encourage businesses to develop cooperative networks. The statewide initiative may include but is not limited to all of the following:

1. A plan to educate businesses and the public on the nature of the international challenge Iowa faces, and the ways in which network activities have been used elsewhere to enhance competitiveness.

2. Training for individuals to act as brokers in helping to organize networks.

3. Establishing programs for networks to study or implement specific collaborative ideas.

4. Conducting surveys of Iowa employer practices designed to attract and encourage high performance work organizations.

DIVISION IX
FAMILY INVESTMENT PROGRAM

Sec. 22. Section 10A.202, subsection 1, paragraph a, Code 1993, is amended to read as follows:

a. Hearings and appeals relative to foster care facilities, child day care facilities, administration of the state medical assistance program, administration of the state supplementary assistance program, administration of the food stamps program, and administration of the ~~aid to dependent children program~~ family investment program, and other programs administered by the department of human services. Decisions of the division in these areas are subject to review by the department of human services.

Sec. 23. Section 10A.402, subsection 7, Code 1993, is amended to read as follows:

7. Investigations relative to the administration of the state supplemental assistance program, the state medical assistance program, the food stamp program, the ~~aid to dependent children program~~ family investment program, and any other state or federal benefit assistance program.

Sec. 24. Section 217.8, Code 1993, is amended to read as follows:

217.8 DIVISION OF CHILD AND FAMILY SERVICES.

The administrator of the division of child and family services shall be qualified by training, experience, and education in the field of welfare and social problems. The administrator is charged with the administration of programs involving neglected, dependent and delinquent children, child welfare, ~~aid to dependent children~~, family investment program, and aid to disabled persons and shall administer and be in control of other related programs established for the general welfare of families, adults and children as directed by the director.

Sec. 25. Section 217.11, subsection 8, Code 1993, is amended to read as follows:

8. Two recipients or former recipients of the ~~aid to dependent children program~~ family investment program, selected by the other members of the committee.

Sec. 26. Section 217.12, subsection 1, subsection 3, paragraph a, and subsection 8, Code 1993, are amended to read as follows:

1. Identify the factors and conditions that place Iowa families at risk of long-term dependency upon the ~~aid to dependent children program~~ family investment program. The council shall seek to use relevant research findings and national and Iowa specific data on the ~~aid to dependent children program~~ family investment program.

a. Designation of families to be served that meet some criteria of being at risk of long-term welfare dependency, and agreement to serve clients that are referred by the department of human services from the ~~aid to dependent children program~~ family investment program which meet the criteria. The criteria may include, but are not limited to, factors such as educational level, work history, family structure, age of the youngest child in the family, previous length of stay on the ~~aid to dependent children program~~ family investment program, and participation in the ~~aid to dependent children program~~ family investment program or the foster care program while the head of a household was a child. Grant proposals shall also establish the number of families to be served under the demonstration program.

8. Evaluate and make recommendations regarding the costs and benefits of the expansion of the services provided under the special needs program of the ~~aid to dependent children program~~ family investment program to include tuition for parenting skills programs, family support and counseling services, child development services, and transportation and child care expenses associated with the programs and services.

Sec. 27. Section 222.78, Code 1993, is amended to read as follows:

222.78 PARENTS AND OTHERS LIABLE FOR SUPPORT.

The father and mother of any person admitted or committed to a hospital-school or to a special unit, as either an inpatient or an outpatient, and any person, firm, or corporation bound by contract hereafter made for support of ~~such~~ the person shall be and remain liable for the support of ~~such~~ the person. ~~Such~~ The person and those legally bound for the support of the person shall be liable to the county for all sums advanced by the county to the state under the provisions of sections 222.60 and 222.77. The liability of any person, other than the patient, who is legally bound for the support of any patient under eighteen years of age in a hospital-school or a special unit shall in no instance exceed the average minimum cost of the care of a normally intelligent, nonhandicapped minor of the same age and sex as ~~such~~ the minor patient. The administrator shall establish the scale for this purpose but the scale shall not exceed the standards for personal allowances established by the state division under the ~~aid to dependent children program~~ family investment program. Provided further that the father or mother of ~~such~~ the person shall not be liable for the support of ~~such~~ the person after ~~such~~ the person attains the age of eighteen years and that the father or mother shall incur liability only during any period when the father or mother either individually or jointly receive a net income from whatever source, commensurate with that upon which they would be liable to make an income tax payment to this state. Nothing in this section shall be construed to prevent a relative or other person from voluntarily paying the full actual cost as established by the administrator for caring for ~~such mentally retarded~~ the person with mental retardation.

Sec. 28. Section 234.6, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The administrator shall be vested with the authority to administer ~~aid to dependent children~~ the family investment program, state supplementary assistance, food programs, child welfare, and emergency relief, family and adult service programs, and any other form of public welfare assistance and institutions that ~~may hereafter be~~ are placed under the administrator's administration. The administrator shall perform ~~such~~ duties, formulate and ~~make such~~ adopt rules as may be necessary; shall outline ~~such~~ policies, dictate ~~such~~ procedure, and delegate such powers as may be necessary for competent and efficient administration. Subject to

restrictions that may be imposed by the director of human services and the council on human services, the administrator ~~shall have power to~~ may abolish, alter, consolidate, or establish subdivisions and may abolish or change offices previously created ~~in connection therewith~~. The administrator may employ necessary personnel and fix their compensation; may allocate or reallocate functions and duties among any subdivisions now existing or ~~hereafter~~ later established; and may ~~promulgate~~ adopt rules relating to the employment of personnel and the allocation of their functions and duties among the various subdivisions as competent and efficient administration may require.

Sec. 29. Section 239.1, subsections 1 and 5, Code 1993, are amended to read as follows:

1. "Administrator" means the administrator of the division of the department of human services to which the director of human services assigns responsibility for the ~~aid to dependent children program~~ family investment program.

5. "Division" means the division of the department of human services to which the director of human services assigns responsibility for the ~~aid to dependent children program~~ family investment program.

Sec. 30. NEW SECTION. 239.1A FAMILY INVESTMENT PROGRAM.

Effective July 1, 1993, assistance provided under this chapter shall no longer be referred to as aid to dependent children but shall be referred to as assistance under the family investment program.

Sec. 31. Section 239.2, Code 1993, is amended to read as follows:

239.2 ELIGIBILITY FOR ~~AID TO DEPENDENT CHILDREN~~ ASSISTANCE.

Assistance shall be granted under this chapter to a dependent child who:

1. Is living in a suitable family home maintained by a specified relative.

2. Is living in this state other than for a temporary purpose, with a specified relative who is living in this state voluntarily with the intent of making the relative's home in this state and not for a temporary purpose.

3. Is not, with respect to assistance applied for by reason of partial or total unemployment of a parent, the child of a parent who is subject to any of the following circumstances:

a. Has been unemployed for less than thirty days prior to receipt of assistance under this chapter.

b. Is partially or totally unemployed due to a work stoppage which exists because of a labor dispute at the factory, establishment, or other premises at which the parent is or was last employed.

c. At any time during the thirty-day period prior to receipt of assistance under this chapter or at any time thereafter while assistance is payable under this chapter, has not been available for employment, has not actively sought employment, or has without good cause refused any bona fide offer of employment or training for employment. The following reasons for refusing employment or training are not good cause: ~~Unsuitable~~ unsuitable or unpleasant work or training, if the parent is able to perform the work or training without unusual danger to the parent's health; or the amount of wages or compensation, unless the wages for employment are below the federal minimum wage.

d. Has not registered for work with the state employment service established pursuant to section 96.12, or thereafter has failed to report at an employment office in accordance with regulations prescribed pursuant to section 96.4, subsection 1.

The division may prescribe requirements in addition to or in lieu of the ~~foregoing~~ requirements of this section, for eligibility for assistance under this chapter to children whose parents are partially or totally unemployed, which are necessary to secure financial participation of the federal government in payment of ~~such~~ the assistance.

Sec. 32. Section 239.12, Code 1993, is amended to read as follows:

239.12 ~~AID TO DEPENDENT CHILDREN~~ FAMILY INVESTMENT PROGRAM ACCOUNT.

There is established in the state treasury an account to be known as the ~~"Aid to Dependent Children Account"~~ family investment program account to which shall be credited all funds appropriated by the state for the payment of assistance, and all other moneys received at any time for ~~such~~ these purposes. Moneys assigned to the department under section 239.3 and received by the child support recovery unit pursuant to section 252B.5 and 42 U.S.C. ~~sec.~~ § 664 shall be credited to the account in the fiscal year in which the moneys are received. All assistance shall be paid from the account.

Sec. 33. Section 239.17, Code 1993, is amended to read as follows:

239.17 RECOVERY OF ASSISTANCE OBTAINED BY FRAUDULENT ACT.

A person who obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a willfully false statement or representation, or by impersonation or any fraudulent device, assistance to which the recipient is not entitled, is personally liable for the amount of assistance thus obtained. The amount of the assistance may be recovered from the offender or the offender's estate in an action brought or by claim filed in the name of the state and the recovered funds shall be deposited in the ~~aid to dependent children~~ family investment program account. The action or claim filed in the name of the state shall not be considered an election of remedies to the exclusion of other remedies.

Sec. 34. Section 239.19, Code 1993, is amended to read as follows:

239.19 TRANSFER OF ~~AID~~ FUNDS TO OTHER WORK AND TRAINING PROGRAMS.

The department of human services may transfer ~~aid to dependent children~~ family investment program funds in its control to any other department or agency of the state for the purpose of providing funds to carry out the job opportunities and basic skills training program created by the federal Family Support Act of 1988, Title II, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq. and administered under chapter 249C and this chapter.

Sec. 35. Section 239.20, Code 1993, is amended to read as follows:

239.20 COUNTY ATTORNEY TO ENFORCE.

Violations of law relating to the ~~aid to dependent children program~~ family investment program shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide prosecution assistance.

Sec. 36. Section 249.13, Code 1993, is amended to read as follows:

249.13 COUNTY ATTORNEY TO ENFORCE.

It is the intent of the general assembly that violations of law relating to ~~aid to dependent children~~ the family investment program, medical assistance, and supplemental assistance shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide such assistance in prosecution as may be required. It is the intent of the general assembly that the first priority for investigation and prosecution for which funds are provided ~~by this Act~~ shall be for fraudulent claims or practices by health care vendors and providers.

Sec. 37. Section 249A.3, subsection 1, paragraph e, subparagraphs (1) and (2), and paragraphs f and m; subsection 2, paragraphs c, d, f, and h, unnumbered paragraph 1, Code 1993, are amended to read as follows:

(1) The woman would be eligible for a cash payment under the ~~aid to dependent children program, or under an aid to dependent children, unemployed parent program,~~ family investment program under chapter 239, if the child were born and living with the woman in the month of payment.

(2) The woman meets the income and resource requirements of the ~~aid to dependent children program~~ family investment program under chapter 239, provided the unborn child is considered a member of the household, and the woman's family is treated as though deprivation exists.

f. Is a child who is less than seven years of age and who meets the income and resource requirements of the ~~aid to dependent children program~~ family investment program under chapter 239.

m. Is an individual or family who is ineligible for ~~aid to dependent children~~ the family investment program under chapter 239 because of requirements that do not apply under Title XIX of the federal Social Security Act.

c. Individuals who are receiving care in an institution for mental diseases, and who are under twenty-one years of age and whose income and resources are such that they are eligible for ~~aid to dependent children~~ the family investment program under chapter 239, or who are sixty-five years of age or older and who meet the conditions for eligibility in paragraph "a" of this subsection.

d. Individuals and families whose incomes and resources are such that they are eligible for federal supplementary security income or ~~aid to dependent children~~ the family investment program, but who are not actually receiving such public assistance.

f. Individuals under twenty-one years of age who qualify on a financial basis for, but who are otherwise ineligible to receive ~~aid to dependent children~~ assistance under the family investment program.

Individuals who have attained the age of twenty-one but have not yet attained the age of sixty-five who qualify on a financial basis for, but who are otherwise ineligible to receive, federal supplementary security income or ~~aid to dependent children~~ assistance under the family investment program.

Sec. 38. Section 249A.14, Code 1993, is amended to read as follows:

249A.14 COUNTY ATTORNEY TO ENFORCE.

It is the intent of the general assembly that violations of law relating to ~~aid to dependent children~~ the family investment program, medical assistance, and supplemental assistance shall be prosecuted by county attorneys. Area prosecutors of the office of the attorney general shall provide assistance in prosecution as required.

Sec. 39. Section 331.756, subsection 49, Code 1993, is amended to read as follows:

49. Prosecute violations of law relating to ~~aid to dependent children~~ the family investment program, medical assistance, and supplemental assistance as provided in sections 239.20, 249.13, and 249A.14.

Sec. 40. Section 421.17, subsection 21, paragraph a, subparagraph (3), Code 1993, is amended to read as follows:

(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~~ assistance under the family investment program, medical assistance, food stamps, foster care, and state supplementary assistance.

Approved May 4, 1993

CHAPTER 98

PLANS FOR RELEASE OF INMATES

H.F. 151

AN ACT relating to plans for release of inmates committed to the custody of the department of corrections.

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

Section 1. Section 904.903, Code 1993, is amended to read as follows:

904.903 AGREEMENT BY INMATE.

An inmate approved to participate in the work release program shall sign a work release agreement. The agreement shall include ~~a statement that the inmate agrees to abide by~~ all terms and conditions of the particular plan adopted for the inmate by the board of parole~~,~~ and shall ~~state the name and address of the proposed employer, if any, and contain~~ include a statement that the inmate agrees to abide by all terms and conditions ~~the board of parole deems necessary and proper~~ in the agreement. The ~~plan~~ agreement shall be signed by the inmate prior to participation in the program. ~~Approval may be revoked for any reason by a member of the board of parole at any time after being granted.~~ Following the release of the inmate, the agreement may be terminated by the department in accordance with rules of the department.

Sec. 2. Section 906.5, subsection 1, unnumbered paragraph 1, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

The board shall establish and implement a plan by which the board systematically reviews the status of each person who has been committed to the custody of the director of the Iowa department of corrections and considers the person's prospects for parole or work release. The board at least annually shall review the status of a person other than a class "A" felon, a class "B" felon serving a sentence of more than twenty-five years, or a felon serving a mandatory minimum sentence other than a class "A" felon, and provide the person with notice of the board's parole or work release decision.

Sec. 3. Section 906.5, subsections 2 and 3, Code 1993, are amended to read as follows:

2. ~~Within six months after the commitment of a person convicted of an offense under chapter 714, 715A, 716, or 716A, a member of the board shall interview the person as provided in subsection 1. The board shall develop a plan for the purpose of early release of such persons when it is determined that a person convicted of such an offense can be released without detriment to the community or to the person.~~

It is the intent of the general assembly that the board shall implement ~~this~~ a plan of early release in an effort to assist in controlling the prison population and assuring prison space for the confinement of offenders whose release would be detrimental to the citizens of this state. The board shall report to the legislative fiscal bureau on a monthly basis concerning the implementation of this plan and the number of inmates paroled pursuant to this plan and the average length of stay of those paroled.

3. At the time of ~~an interview required~~ a review conducted under this section, the board shall consider all pertinent information regarding the person, including the circumstances of the person's offense, any presentence report which is available, the previous social history and criminal record of the person, the person's conduct, work, and attitude in prison, and the reports of physical and mental examinations that have been made.

Approved May 4, 1993

CHAPTER 99

MINNOWS AND OTHER BAIT

H.F. 342

AN ACT relating to the sale, use, possession, and transportation of minnows for commercial or personal use.

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

Section 1. Section 481A.1, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 6A. "Bait" includes, but is not limited to, minnows, green sunfish, orange-spotted sunfish, gizzard shad, frogs, crayfish, salamanders, and mussels.

NEW SUBSECTION. 20A. "Minnows" means chubs, suckers, shiners, dace, stonerollers, mud minnows, redhorse, blunt-nose, and fathead minnows.

Sec. 2. Section 481A.144, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

481A.144 LICENSED BAIT DEALERS — REQUIREMENTS.

1. A person shall not sell minnows, frogs, crayfish, salamanders, and mussels for fish bait without first obtaining a bait dealer's license from the department upon payment of the license fee. A licensee shall comply with all laws pertaining to taking, possessing, and selling of bait handled by the licensee. If convicted of violating a provision of this chapter or a rule adopted pursuant to this chapter, a licensee shall forfeit the licensee's bait dealer license upon demand of the director.

2. When taking bait from lakes and streams, bait dealers shall take only the size of bait which they can use, and shall return all small minnows and frogs to the water immediately.

3. A minnow and bait box and a tank shall be open to inspection by the department at all times. A licensee shall have tanks and bait boxes of sufficient size and with proper aeration to keep the bait alive and prevent substantial loss.

4. A person shall not take or attempt to take minnows for commercial purposes from any waters of the state or shall not transport minnows without first obtaining a bait dealer's license. However, a person taking or transporting minnows for personal use is not required to have a bait dealer's license.

Sec. 3. Section 481A.145, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. Except for species listed as threatened or endangered under chapter 481B, a licensed bait dealer may take sufficient bait from lakes and streams of this state that are not closed to the taking of bait, to supply the licensee's customers for hook and line fishing if the licensee is present while the bait is being taken.

Sec. 4. Section 481A.145, subsection 3, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

3. A person shall not transport, use, sell or offer to sell for bait or introduce into any inland waters of this state or into any waters from which the waters of the state may become stocked, any minnows or fish of the carp, quillback, gar, or dogfish species. Fish of the carp, quillback, gar, or dogfish species may be returned to the waters from which they are taken. A person shall not possess live gizzard shad at any lake in this state.

Sec. 5. Section 481A.145, subsections 2 and 5, Code 1993, are amended to read as follows:

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~~ for the purpose of sale beyond the boundaries of 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 481A.146. Green sunfish, orange-spotted sunfish, and gizzard shad may also be taken for bait.~~

5. A person shall not use a minnow dip net which exceeds four feet in diameter, a cast net which exceeds ten feet in diameter, or a minnow seine which exceeds ~~fifteen~~ twenty 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~~ twenty feet, but not exceeding fifty feet in length.

Sec. 6. Sections 481A.63, 481A.80, 481A.81, and 481A.82, Code 1993, are repealed.

Approved May 4, 1993

CHAPTER 100

REPORTING OF INFORMATION FOR LAW ENFORCEMENT PURPOSES

H.F. 451

AN ACT relating to certain reports required to be reported by, or to, sheriffs and other law enforcement agencies.

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

Section 1. Section 100A.1, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The sheriff of the county in which the fire occurs.

Sec. 2. Section 147.111, Code 1993, is amended to read as follows:

147.111 REPORT OF TREATMENT OF WOUNDS.

Any person licensed under the provisions of this subtitle, excluding chapters 152B and 152C, who shall administer any treatment to any person suffering ~~an injury of violence~~ a gunshot or stab wound or other serious bodily injury, as defined in section 702.18, which appears to have been received in connection with the commission of a criminal offense, or to whom an application is made for treatment of any nature because of any such gunshot or stab wound or other serious injury ~~of violence~~, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report ~~said~~ that fact to the ~~sheriff of the county in which said~~ law enforcement agency within whose jurisdiction the treatment was administered or an application therefor was made, or if ascertainable, to the law enforcement agency in whose jurisdiction the gunshot or stab wound or other serious bodily injury occurred, stating ~~therein~~ the name of such person, the person's residence if ascertainable, and giving a brief description of the gunshot or stab wound or other serious bodily injury. Any provision of law or rule of evidence relative to confidential communications is suspended insofar as the provisions ~~hereof~~ of this section are concerned.

Sec. 3. Section 147.112, Code 1993, is amended to read as follows:

147.112 REPORT BY ~~SHERIFF~~ LAW ENFORCEMENT AGENCY.

The ~~sheriff of any county~~ law enforcement agency who has received any report required by this chapter and who has any reason to believe that the person injured was involved in the commission of any crime, either as perpetrator or victim, shall at once ~~report said fact, giving all the details relative thereto to the chief of the bureau of investigation~~ commence an investigation into the circumstances of the gunshot or stab wound or other serious bodily injury and make a report of the investigation to the county attorney in whose jurisdiction the gunshot or stab wound or other serious bodily injury occurred. ~~No sheriff~~ Law enforcement personnel shall not divulge any information received under the provisions of this section and section 147.111 to any person other than a law enforcing officer, and then only in connection with the investigation of the alleged commission of a crime.

Approved May 4, 1993

CHAPTER 101

DEPARTMENT OF EDUCATION — MISCELLANEOUS PROVISIONS

S.F. 206

AN ACT relating to educational finances, activities, and procedures and providing effective and applicability date provisions.

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

DIVISION I

Section 101. Section 256.12, subsection 2, Code 1993, is amended to read as follows:

2. This section does not deprive the respective boards of public school districts of any of their legal powers, statutory or otherwise, and in accepting the specially enrolled students, each of the boards shall prescribe the terms of the special enrollment, including but not limited to scheduling of courses and the length of class periods. In addition, the board of the affected public school district shall be given notice by the department of its decision to permit the special enrollment not later than six months prior to the opening of the affected public school district's school year, except that the board of the public school district may waive the notice requirement. School districts and area education agency boards ~~may~~ shall make public school services, which ~~may~~ shall include ~~health services;~~ special education programs and services; ~~diagnostic services for speech, hearing, and psychological purposes;~~ and may include health services; services for remedial education programs, guidance services, and school testing services, available to children attending nonpublic schools in the same manner and to the same extent that they are provided to public school students. However, services that are made available shall be provided on neutral sites, or in mobile units located off the nonpublic school premises as determined by the boards of the school districts and area education agencies providing the services, and not on nonpublic school property, except for health services and diagnostic services for speech, hearing, and psychological purposes, which may be provided on nonpublic school premises, with the permission of the lawful custodian.

Sec. 102. Section 256B.8, unnumbered paragraph 1, Code 1993, is amended to read as follows:

It is not incumbent upon the school districts to keep a child requiring special education in regular instruction when the child cannot sufficiently profit from the work of the regular classroom, nor to keep a child requiring special education in the special class or instruction for children requiring special education when it is determined by the ~~director of special education of an area education agency~~ diagnostic educational team that the child can no longer benefit from the instruction or needs more specialized instruction available in special schools. However, the school district shall count the child requiring special education in the enrollment as provided in sections 256B.9, 257.6, and 273.9 and shall ensure that appropriate educational provisions are made for the child requiring special education ~~within the limits of moneys available under this chapter and chapters 257 and 273.~~

DIVISION II

Sec. 201. Section 256.46, Code 1993, 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; 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. 202. Section 257.31, subsection 14, unnumbered paragraph 2, Code 1993, is amended by striking the unnumbered paragraph.

Sec. 203. Section 260C.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Developmental education for persons who are academically or personally underprepared to succeed in their program of study.

Sec. 204. Section 280.13, Code 1993, is amended to read as follows:

280.13 REQUIREMENTS FOR INTERSCHOLASTIC ATHLETIC CONTESTS AND COMPETITIONS.

A public school shall not participate in or allow students representing a public school to participate in any extracurricular interscholastic athletic contest or competition which is sponsored or administered by an organization as defined in this section, unless the organization is registered with the department of education, files financial statements with the department in the form and at the intervals prescribed by the director of the department of education, and is in compliance with rules which the state board of education adopts for the proper administration, supervision, operation, adoption of eligibility requirements, and scheduling of extracurricular interscholastic athletic contests and competitions and the organizations. For the purposes of this section "organization" means a corporation, association, or organization which has as one of its primary purposes the sponsoring or administration of extracurricular interscholastic athletic contests or competitions, but does not include an agency of this state, a public or private school or school board, or an athletic conference or other association whose interscholastic contests or competitions do not include more than ~~twenty~~ twenty-four schools.

Sec. 205. Section 294A.14, unnumbered paragraph 5, Code 1993, is amended to read as follows:

For school districts, a performance-based pay plan may provide for additional salary for individual teachers, for teachers assigned to a specific discipline, or for all teachers assigned to an attendance center. For area education agencies, a performance-based pay plan may provide for additional salary for individual teachers, for additional salary for all teachers assigned to a specific discipline within an area education agency, or for additional salary for individual teachers assigned to a multidisciplinary team within an area education agency. If the plan provides additional salary for all teachers assigned to an attendance center, specific discipline, or multidisciplinary team, the receipt of additional salary by those teachers shall be determined on the basis of whether that attendance center, specific discipline, or multidisciplinary team meets specific objectives adopted for that attendance center, specific discipline, or multidisciplinary team. For school districts, the objectives may include, but are not limited to, decreasing the dropout rate, increasing the attendance rate, or accelerating the achievement growth of students enrolled in that attendance center through the use of learning techniques that may include, but are not limited to, reading instruction in phonics or whole language techniques.

Sec. 206. Section 294A.16, unnumbered paragraph 1, Code 1993, 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 ~~April 15~~ May 31 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. 207. Section 299.3, Code 1993, is amended to read as follows:

299.3 REPORTS FROM ACCREDITED NONPUBLIC SCHOOLS.

Within ten days from receipt of notice from the secretary of the school district within which an accredited nonpublic school is conducted, the principal of the accredited nonpublic school shall, once during each school year, and at any time when requested in individual cases, furnish to the secretary of the public school district, within which the accredited nonpublic school is located, a certificate and report in duplicate on forms provided by the public school district of the names, and ages, ~~and number of days attendance~~ of each pupil of the accredited nonpublic school who is of compulsory attendance age and the ~~course of study pursued by the~~ grade level of each pupil, during the preceding year and from the time of the last preceding report to the time at which a report is required. In addition, the report shall identify all students of compulsory attendance age who were truant as defined by law or school policy and the number of days of truancy for the period covered by the report, and children who dropped out, withdrew from enrollment, or transferred to another Iowa school and the date their attendance ceased at the accredited nonpublic school. The secretary shall retain one of the reports and file the other with the secretary of the area education agency.

Sec. 208. COMMUNITY COLLEGE FUNDING FORMULA STUDY. The department of education shall conduct a study of the current community college funding formula during the fiscal year beginning July 1, 1993. This study should examine the funding base year, current funding formula based on state needs, and propose recommendations for changes. The report of findings and recommendations shall be submitted to the general assembly by January 1995.

Sec. 209. Section 202 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992, for purposes of determining the balance of funds of a school district for the school budget year ending June 30, 1992.

Sec. 210. Section 206 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 5, 1993

CHAPTER 102

AGRICULTURAL COMMODITY PROMOTIONAL BOARDS

S.F. 278

AN ACT to exclude agricultural commodity promotional boards, which are subject to a producer referendum, from the requirements applicable to state agencies.

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

Section 1. NEW SECTION. 181.18A NOT A STATE AGENCY.
The Iowa beef cattle producers association is not an agency of state government.

Sec. 2. NEW SECTION. 182.13A NOT A STATE AGENCY.
The Iowa sheep and wool promotion board is not an agency of state government.

Sec. 3. NEW SECTION. 196A.14A NOT A STATE AGENCY.
The Iowa egg council is not an agency of state government.

Approved May 5, 1993

CHAPTER 103

INFECTIOUS WASTE TREATMENT AND DISPOSAL FACILITIES

S.F. 290

AN ACT relating to the moratorium on the granting of permits for the construction or operation of infectious waste treatment or disposal facilities and providing for exemptions.

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

Section 1. Section 455B.503, Code 1993, 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 7A.11 ~~by January 15, 1993~~ and the commission shall adopt rules by January 15, 1994. 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~~ 1994.

Sec. 2. 1990 Iowa Acts, chapter 1191, section 5, unnumbered paragraph 1, as amended by 1991 Iowa Acts, chapter 242, section 7, to be subsection 1 and subsection 3, paragraph a, and as further amended by 1992 Iowa Acts, chapter 1182, section 6, is 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, ~~1993~~ 1994. The department shall adopt rules no later than January 15, 1994. The moratorium does not apply to an infectious waste treatment or disposal facility exclusively constructed or exclusively owned and operated by a hospital licensed pursuant to chapter 135B, or by two or more hospitals licensed pursuant to chapter 135B that jointly and exclusively construct or jointly and exclusively own and 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, homemaker-home health agencies, hospice programs, public health and educational institutions, nurses' offices, veterinary clinics, and any other institutional health ~~service-related entities~~ facility as defined in section 135.61, subsection 14, in this state or within the service area of the hospital or hospitals operating the facility. The service area shall not extend more than seventy-five miles from the state border. 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, ~~1994~~ 1995, or as federal standards and limitations become final, whichever is earlier.

Approved May 5, 1993

CHAPTER 104

CRIME VICTIM COMPENSATION

S.F. 296

AN ACT relating to criminal proceedings and amounts available for victim reparation.

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

Section 1. Section 912.6, subsections 1 and 6, Code 1993, are amended to read as follows:

1. Reasonable charges incurred for medical care not to exceed ten thousand five hundred dollars. Reasonable charges incurred for mental health care not to exceed ~~one~~ three thousand ~~five hundred~~ dollars which includes services provided by a psychologist licensed under chapter 154B, a person holding at least a master's degree in social work or counseling and guidance, or a victim counselor as defined in section 236A.1.

6. In the event of a victim's death, reasonable charges incurred for counseling the victim's spouse, children, parents, siblings, or persons cohabiting with or related by blood or affinity to the victim if the counseling services are provided by a psychologist licensed under chapter 154B, a victim counselor as defined in section 236A.1, subsection 1, or an individual holding at least a master's degree in social work or counseling and guidance, and reasonable charges incurred by such persons for medical care counseling provided by a psychiatrist licensed under chapter 147 or 150A. The allowable charges under this subsection shall not exceed ~~five hundred~~ three thousand dollars per person or a total of ~~two~~ six thousand dollars per victim death.

Approved May 5, 1993

CHAPTER 105

ACTIVITIES COVERED UNDER PHASE III OF EDUCATIONAL EXCELLENCE PROGRAM

S.F. 326

AN ACT relating to parent involvement policies in district and area education agency phase III plans, and to participation in family support programs.

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

Section 1. Section 294A.12, unnumbered paragraph 2, Code 1993, is amended to read as follows:

It is the intent of the general assembly that school districts and area education agencies incorporate into their planning for performance-based pay plans and supplemental pay plans, implementation of recommendations from recently issued national and state reports relating to the requirements of the educational system for meeting future educational needs, especially

as they relate to the preparation, working conditions, and responsibilities of teachers, including but not limited to assistance to new teachers, development of teachers as instructional leaders in their schools and school districts, using teachers for evaluation and diagnosis of other teachers' techniques, and the implementation of sabbatical leaves. It is also the intent of the general assembly that a performance-based pay plan and supplemental pay plan submitted by a district include a parent involvement policy designed to increase student achievement and self-esteem by bringing home and school into closer relationship and that provides methods by which parents and teachers may cooperate intelligently in the education of children. It is further the intent of the general assembly that real and fundamental change in the educational system must emerge from the school site if the education system is to remain relevant and that plans funded in this program must be an integral part of a comprehensive school district or area education agency effort toward meeting identified district or agency goals or needs.

Sec. 2. Section 294A.14, unnumbered paragraphs 9 and 10, Code 1993, are amended to read as follows:

For school districts, additional instructional work assignments may include but are not limited to general curriculum planning and development, vertical articulation of curriculum, horizontal curriculum coordination, development of educational measurement practices for the school district, attendance at workshops and other programs for service as cooperating teachers for student teachers, development of plans for assisting beginning teachers during their first year of teaching, attendance at summer staff development programs, development of staff development programs for other teachers to be presented during the school year, participation in family support programs, and other plans locally determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the school district.

For area education agencies, additional instructional work assignments may include but are not limited to providing assistance and support to school districts in general curriculum planning and development, providing assistance to school districts in vertical articulation of curriculum and horizontal curriculum coordination, development of educational measurement practices for school districts in the area education agency, development of plans for assisting beginning teachers during their first year of teaching, attendance or instruction at summer staff development programs, development of staff development programs for school district teachers to be presented during the school year, participation in family support programs, and other plans determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the area education agency.

Approved May 5, 1993

CHAPTER 106

MEDICAL ASSISTANCE — DEBTS — TRANSFER OF ASSETS
S.F. 394

AN ACT relating to establishing a debt due for medical assistance resulting from a transfer of assets, and to allowable claims against a conservatorship for the cost of medical care or services provided to a recipient of medical assistance.

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

Section 1. NEW SECTION. 249F.1 DEFINITIONS.

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

1. "Medical assistance" means "medical assistance", "additional medical assistance", "discretionary medical assistance", or "medicare cost sharing" as each is defined in section 249A.2 which is provided to an individual pursuant to chapter 249A and Title XIX of the federal Social Security Act.

2. a. "Transfer of assets" means any transfer or assignment of a legal or equitable interest in property, as defined in section 702.14, from a transferor to a transferee for less than fair consideration, made while the transferor is receiving medical assistance or within five years prior to application for medical assistance by the transferor. Any such transfer or assignment is presumed to be made with the intent, on the part of the transferee, of enabling the transferor to obtain or maintain eligibility for medical assistance. This presumption is rebuttable only by clear and convincing evidence that the transferor's eligibility or potential eligibility for medical assistance was no part of the transferee's reason for accepting the transfer or assignment.

b. However, transfer of assets does not include the following:

(1) Transfers to or for the sole benefit of the transferor's spouse, including a transfer to a spouse by an institutionalized spouse pursuant to section 1924(f)(1) of the federal Social Security Act.

(2) Transfers, other than the transfer of a dwelling, to or for the sole benefit of the transferor's child who is blind or disabled as defined in section 1614 of the federal Social Security Act.

(3) Transfer of a dwelling to a child of the transferor under twenty-one years of age.

(4) Transfer of a dwelling, after the transferor is institutionalized, to either of the following:

(a) A sibling of the transferor who has an equity interest in the dwelling and who was residing in the dwelling for a period of at least one year immediately prior to the date the transferor became institutionalized.

(b) A child of the transferor who was residing in the dwelling for a period of at least two years immediately prior to the date the transferor became institutionalized and who provided care to the transferor which permitted the transferor to reside at the dwelling rather than in an institution or facility.

(5) Transfers of less than two thousand dollars. For purposes of this chapter, all transfers by the same transferor during a calendar year will be aggregated.

(6) Transfers of property that would, at the time of the transferor's application for medical assistance, have been exempt from consideration as a resource if it had been retained by the transferor, pursuant to 42 U.S.C. § 1382b(a), as implemented by regulations adopted by the secretary of the United States department of health and human services, and pursuant to section 561.16 and chapter 627.

3. "Transferor" means the person who makes a transfer of assets.

4. "Transferee" means the person who receives a transfer of assets.

Sec. 2. NEW SECTION. 249F.2 CREATION OF DEBT.

A transfer of assets creates a debt due and owing to the department of human services from the transferee in an amount equal to medical assistance provided to or on behalf of the transferor, on or after the date of the transfer of assets, but not exceeding the assets which are not exempt under section 249F.1.

Sec. 3. NEW SECTION. 249F.3 NOTICE OF DEBT – FAILURE TO RESPOND – HEARING – ORDER.

1. The department of human services may issue a notice establishing and demanding payment of an accrued or accruing debt due and owing to the department of human services as provided in section 249F.2. The notice shall be served upon the transferee in accordance with the rules of civil procedure. The notice shall include all of the following:

a. The amount of medical assistance provided to the transferor to date which creates the debt.

b. A computation of the debt due and owing.

c. A demand for immediate payment of the debt.

d. (1) A statement that if the transferee desires to discuss the notice, the transferee, within ten days after being served, may contact the department of human services and request an informal conference.

(2) A statement that if a conference is requested, the transferee has until ten days after the date set for the conference or until twenty days after the date of service of the original notice, whichever is later, to send a request for a hearing to the department of human services.

(3) A statement that after the holding of the conference, the department of human services may issue a new notice to be sent to the transferee by first class mail addressed to the transferee at the transferee's last known address, or if applicable, to the transferee's attorney at the last known address of the transferee's attorney.

(4) A statement that if the department of human services issues a new notice, the transferee has until ten days after the date of mailing of the new notice or until twenty days after the date of service of the original notice, whichever is later, to send a request for a hearing to the department of human services.

e. A statement that if the transferee objects to all or any part of the original notice and no conference is requested, the transferee has until twenty days after the date of service of the original notice to send a written response setting forth any objections and requesting a hearing to the department of human services.

f. A statement that if a timely written request for a hearing is received by the department of human services, the transferee has the right to a hearing to be held in district court as provided in section 249F.4; and that if no timely written request for hearing is received, the department of human services will enter an order in accordance with the latest notice.

g. A statement, that as soon as the order is entered, the property of the transferee is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, or execution.

h. A statement that the transferee must notify the department of human services of any change of address or employment.

i. A statement that if the transferee has any questions concerning the transfer of assets, the transferee should contact the department of human services or consult an attorney.

j. Other information as the department of human services finds appropriate.

2. If a timely written request for hearing is received by the department of human services, a hearing shall be held in district court.

3. If a timely written request for hearing is not received by the department of human services, the department may enter an order in accordance with the latest notice, and the order shall specify all of the following:

a. The amount to be paid with directions as to the manner of payment.

b. The amount of the debt accrued and accruing in favor of the department of human services.

c. Notice that the property of the transferee is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

4. The transferee shall be sent a copy of the order by first class mail addressed to the transferee at the transferee's last known address, or if applicable, to the transferee's attorney at the last known address of the transferee's attorney. The order is final, and action by the department of human services to enforce and collect upon the order may be taken from the date of the issuance of the order.

Sec. 4. NEW SECTION. 249F.4 CERTIFICATION TO COURT — HEARING — DEFAULT.

1. If a timely written request for a hearing is received, the department of human services shall certify the matter to the district court in the county where the transferee resides.

2. The certification shall include true copies of the original notice, the return of service, any request for an informal conference, any subsequent notices, the written request for hearing, and true copies of any administrative orders previously entered.

3. The department of human services may also request a hearing on its own motion regarding the determination of a debt, at any time prior to entry of an administrative order.

4. The district court shall set the matter for hearing and notify the parties of the time and place of hearing.

5. If a party fails to appear at the hearing, upon a showing of proper notice to the party, the district court may find the party in default and enter an appropriate order.

Sec. 5. NEW SECTION. 249F.5 FILING AND DOCKETING OF ORDER — ORDER EFFECTIVE AS COURT DECREE.

1. A true copy of an order entered by the department of human services 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 transferee resides or, if the transferee resides in another state, in the office of the district court in the county in which the transferor resides.

2. The department of human services order shall be presented, ex parte, to the district court for review and approval. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order. The approved order shall have all force, effect, and attributes of a docketed order or decree of the district court.

3. Upon filing, the clerk shall enter the order in the judgment docket.

Sec. 6. NEW SECTION. 249F.7 SECURITY FOR PAYMENT OF DEBT — FORFEITURE.

Upon entry of a court order or upon the failure of a transferee to make payments pursuant to a court order, the court may require the transferee to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the debt under the court order. If the transferee fails to make payments pursuant to the court order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 7. NEW SECTION. 249F.8 ADMINISTRATION.

As provided in this chapter, the establishment of a debt for medical assistance due to transfer of assets shall be administered by the department of human services. All administrative discretion in the administration of this chapter shall be exercised by the department of human services, and any state administrative rules implementing or interpreting this chapter shall be adopted by the department of human services.

Sec. 8. NEW SECTION. 249F.9 INCONSISTENCY WITH FEDERAL LAWS.

If it is determined by the attorney general that any provision of this chapter would cause denial of funds from the United States government under Title XIX of the federal Social Security Act, or would otherwise be inconsistent or conflict with the requirements of federal law for state participation in the Title XIX program, such provision shall be suspended, but only to the extent necessary to prevent denial of such funds or to eliminate the inconsistency or conflict with the requirements of federal law. If the attorney general makes such a suspension determination, the attorney general shall report it to the general assembly at its next session. This report shall include any recommendations in regard to corrective legislation needed to conform this chapter with federal law.

Sec. 9. NEW SECTION. 633.653A CLAIMS FOR COST OF MEDICAL CARE OR SERVICES.

The provision of medical care or services to a ward who is a recipient of medical assistance under chapter 249A creates a claim against the conservatorship for the amount owed to the provider under the medical assistance program for the care or services. The amount of the claim, after being allowed or established as provided in this part, shall be paid by the conservator from the assets of the conservatorship.

Approved May 5, 1993

CHAPTER 107

EMERGENCY MEDICAL SERVICES — PHYSICIAN ASSISTANTS

S.F. 80

AN ACT relating to the provision of emergency medical services by a physician assistant, and providing for exemption from liability in certain situations.

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

Section 1. Section 147A.8, subsection 2, paragraphs c and d, Code 1993, are amended to read as follows:

c. Employed by or assigned to a hospital as a member of an authorized ambulance, rescue, or first response service, by rendering lifesaving services in the facility in which employed or assigned pursuant to the advanced emergency medical care provider's certification and under the direct supervision of a physician, physician assistant, or registered nurse. An advanced emergency medical care provider shall not routinely function without the direct supervision of a physician, physician assistant, or registered nurse. However, when the physician, physician assistant, or registered nurse cannot directly assume emergency care of the patient, the advanced emergency medical care provider may perform without direct supervision advanced emergency medical care procedures for which that individual is certified if the life of the patient is in immediate danger and such care is required to preserve the patient's life; or

d. Employed by or assigned to a hospital as a member of an authorized ambulance, rescue, or first response service to perform nonlifesaving procedures for which those individuals have been trained and are designated in a written job description. Such procedures may be performed after the patient is observed by and when the advanced emergency medical care provider is under the supervision of the physician, physician assistant, or registered nurse and where the procedure may be immediately abandoned without risk to the patient.

Sec. 2. Section 147A.9, subsection 1, Code 1993, is amended to read as follows:

1. When voice contact or a telemetered electrocardiogram is monitored by a physician, ~~or~~ physician's designee, or physician assistant, and direct communication is maintained, an advanced emergency medical care provider may upon order of the monitoring physician or upon standing orders of a physician transmitted by the monitoring physician's designee or physician assistant perform any advanced emergency medical care procedure for which that advanced emergency medical care provider is certified.

Sec. 3. Section 147A.10, Code 1993, is amended to read as follows:

147A.10 EXEMPTIONS FROM LIABILITY IN CERTAIN CIRCUMSTANCES.

1. A physician, ~~or~~ physician's designee, or physician assistant, who gives orders, either directly or via communications equipment from some other point, to an appropriately certified advanced emergency medical care provider at the scene of an emergency, and an appropriately certified advanced emergency medical care provider following the orders, are not

subject to criminal liability by reason of having issued or executed the orders, and are not liable for civil damages for acts or omissions relating to the issuance or execution of the orders unless the acts or omissions constitute recklessness.

2. A physician, physician's designee, physician assistant, or advanced emergency medical care provider shall not be subject to civil liability solely by reason of failure to obtain consent before rendering emergency medical, surgical, hospital or health services to any individual, regardless of age, when the patient is unable to give consent for any reason and there is no other person reasonably available who is legally authorized to consent to the providing of such care.

3. An act of commission or omission of any appropriately certified advanced emergency medical care provider or physician assistant while rendering advanced emergency medical care under the responsible supervision and control of a physician to a person who is deemed by them to be in immediate danger of serious injury or loss of life, shall not impose any liability upon the certified advanced emergency medical care provider or physician assistant, the supervising physician, or any hospital, or upon the state, or any county, city or other political subdivision, or the employees of any of these entities; provided that this section shall not relieve any person of liability for civil damages for any act of commission or omission which constitutes recklessness.

Sec. 4. NEW SECTION. 147A.13 PHYSICIAN ASSISTANT EXCEPTION.

This chapter does not restrict a physician assistant, licensed pursuant to chapter 148C, from staffing an authorized ambulance, rescue, or first response service if the physician assistant can document equivalency through education and additional skills training essential in the delivery of prehospital emergency care. The equivalency shall be accepted when:

1. Documentation has been reviewed and approved at the local level by the medical director of the ambulance, rescue, or first response service in accordance with the rules of the board of physician assistant examiners.

2. Authorization has been granted to that ambulance, rescue, or first response service by the department.

Approved May 6, 1993

CHAPTER 108

HOSPITAL PRIVILEGES

S.F. 287

AN ACT relating to hospital privileges provided certain professionals including certified health service providers in psychology.

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

Section 1. Section 135B.7, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The rules shall state that a hospital shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopaths, osteopathic surgeons, ~~or~~ dentists, or certified health service providers in psychology licensed under chapter 148, 149, 150, 150A, or 153, or section 154B.7 solely by reason of the license held by the practitioner or solely by reason of the school or institution in which the practitioner received medical schooling or postgraduate training if the medical schooling or postgraduate training was accredited by an organization recognized by the council on postsecondary accreditation or an accrediting group recognized by the United States department of education. A hospital may establish procedures for interaction between

a patient and a practitioner. Nothing in the rules shall prohibit a hospital from limiting, restricting, or revoking clinical privileges of a practitioner for violation of hospital rules, regulations, or procedures established under this paragraph, when applied in good faith and in a nondiscriminatory manner. Nothing in this paragraph shall require a hospital to expand the hospital's current scope of service delivery solely to offer the services of a class of providers not currently providing services at the hospital. Nothing in this section shall be construed to require a hospital to establish rules which are inconsistent with the scope of practice established for licensure of practitioners to whom this paragraph applies. This section shall not be construed to authorize the denial of clinical privileges to a practitioner or class of practitioners solely because a hospital has as employees of the hospital identically licensed practitioners providing the same or similar services.

The rules shall require that a hospital establish and implement written criteria for the granting of clinical privileges. The written criteria shall include but are not limited to consideration of the ability of an applicant for privileges to provide patient care services independently and appropriately in the hospital; the license held by the applicant to practice; training, experience, and competence of the applicant; the relationship between the applicant's request for the granting of privileges and the hospital's current scope of patient care services, as well as the hospital's determination of the necessity to grant privileges to a practitioner authorized to provide comprehensive, appropriate, and cost-effective services.

Approved May 6, 1993

CHAPTER 109

RECORDING OF INSTRUMENTS IN COUNTY RECORDER'S OFFICE

S.F. 245

AN ACT relating to the recording of certain instruments in the office of county recorder.

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

Section 1. Section 161A.7, subsection 18, paragraph b, Code 1993, 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~~ recorded with the recorder in the county in which the district is located, and updated as necessary, after the committee approves and the administrator of the division signs the district plan. The commissioners shall provide notice of the ~~filing~~ recording 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 161A.4.

Sec. 2. Section 321.251, subsection 3, Code 1993, is amended to read as follows:

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~~ recording 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.

Sec. 3. Section 504A.9, unnumbered paragraphs 2, 3, 5, 6, and 7, Code 1993, are amended to read as follows:

The statement shall be delivered to the secretary of state for filing and recording in the secretary of state's office~~, and the statement shall be filed and recorded in the office of the county recorder. If the registered office is changed from one county to another, the statement shall be filed and recorded in the office of the county recorder of the county to which the registered office is changed, and a certified copy of the statement shall be furnished by the secretary of state and delivered to the office of the county recorder for filing in the county in which the registered office was located prior to the filing of the statement.~~

~~If the registered office is changed from one county to another, the corporation shall also cause to be filed and recorded forthwith in the office of the recorder of the county to which such registered office is changed, its original articles of incorporation and all amendments thereto, or copies thereof certified by the secretary of state, or its restated articles and all amendments thereto, or copies thereof certified by the secretary of state.~~ The

~~The~~ change of address of registered office or the change of registered agent or agents or both registered office and agent or agents, as the case may be, shall become effective upon the filing of such statement by the secretary of state~~, but until such statement is recorded in the office of the recorder as above prescribed, service of process, notice or demand required or permitted by law to be served upon the corporation may be served upon the person who was its registered agent at its registered office prior to the filing of such statement with the same force and effect as if no change in registered office or registered agent had been made.~~

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall record one copy and forthwith mail the other copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. ~~The copy recorded by the secretary of state shall be sent by the secretary to the county recorder of the county in which the registered office is located for recording in the county recorder's office.~~ The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state.

The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the annual report pursuant to section 504A.83, provided that the form contains the information required in this section. If the secretary of state determines that an annual report does not contain the information required by section 504A.83 but otherwise meets the requirements of this section for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent before returning the annual report to the corporation pursuant to section 504A.84. ~~The secretary of state shall deliver a notice certifying the change in registered office or registered agent to the office of the county recorder for filing and recording.~~ A statement of change of registered office or registered agent pursuant to this paragraph shall be executed by a person authorized to execute the annual report.

Sec. 4. Section 504A.30, Code 1993, is amended to read as follows:

504A.30 FILING AND RECORDING OF ARTICLES OF INCORPORATION.

The articles of incorporation shall be delivered to the secretary of state for filing and recording in the secretary of state's office~~, and the same shall be filed and recorded in the office of the county recorder.~~ The secretary of state upon the filing of such articles shall issue a certificate of incorporation and send the ~~same~~ certificate to the corporation or its representative.

Sec. 5. Section 504A.32, subsection 1, paragraph c, Code 1993, is amended by striking the paragraph.

Sec. 6. Section 504A.37, Code 1993, is amended to read as follows:

504A.37 FILING OF ARTICLES OF AMENDMENT.

The articles of amendment shall be delivered to the secretary of state for filing and recording in the secretary of state's office~~, and the same shall be filed and recorded in the office of~~

~~the county recorder~~. The secretary of state upon the filing of the articles of amendment shall issue a certificate of amendment and send the ~~same~~ certificate to the corporation or its representative.

Sec. 7. Section 504A.39, subsection 4, unnumbered paragraph 4, Code 1993, is amended to read as follows:

The restated articles of incorporation shall be delivered to the secretary of state for filing and recording in the secretary of state's office ~~and the same shall be filed and recorded in the office of the county recorder~~.

Sec. 8. Section 504A.43, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The articles of merger or articles of consolidation shall be delivered to the secretary of state for filing and recording in the secretary of state's office~~, and the same shall be filed and recorded in the office of the recorder of each county in which the registered office of each domestic merging or consolidating corporation was located prior to the merger or consolidation and, if the new corporation into which the corporations have consolidated is a domestic corporation, in the office of the recorder of the county in which the registered office of the new corporation is located~~.

Sec. 9. Section 504A.52, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Such articles of dissolution shall be delivered to the secretary of state for filing and recording in the secretary of state's office~~, and the same shall be filed and recorded in the office of the county recorder~~.

Sec. 10. Section 504A.62, Code 1993, is amended to read as follows:

504A.62 FILING OF DECREE OF DISSOLUTION.

In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause certified copies of the decree to be filed with and recorded by the secretary of state ~~and the county recorder of the county in which is located the corporation's registered office. No fee shall be charged by the secretary of state or said county recorder for the filing or recording thereof~~.

Sec. 11. Section 504A.73, unnumbered paragraph 5, Code 1993, is amended to read as follows:

The secretary of state may provide for the change of registered office or registered agent on the form prescribed by the secretary of state for the annual report pursuant to section 504A.83, provided that the form contains the information required in this section. If the secretary of state determines that an annual report does not contain the information required by section 504A.83 but otherwise meets the requirements of this section for the purpose of changing the registered office or registered agent, the secretary of state shall file the statement of change of registered office or registered agent before returning the annual report to the corporation pursuant to section 504A.84. ~~The secretary of state shall deliver a notice certifying the change in registered office or registered agent to the office of the county recorder for filing and recording.~~ A statement of change of registered office or registered agent pursuant to this paragraph shall be executed by a person authorized to execute the annual report.

Sec. 12. Section 504A.87, unnumbered paragraph 6, Code 1993, is amended to read as follows:

The secretary of state, upon filing the application for reinstatement, shall issue a certificate of reinstatement and file and record the same in the secretary of state's office and, if the application for reinstatement shall set forth a change in the name of the corporation, as required by this section, the same shall constitute an amendment to the articles of incorporation of the corporation and the certificate of reinstatement shall set forth such fact ~~and shall be filed and recorded in the office of the county recorder~~. Upon the issuance of the certificate of reinstatement, the corporation shall be entitled to continue to act as a corporation for the unexpired portion of its corporate period as fixed by its articles of incorporation, except, that the corporation shall not be entitled to use the name of the corporation at the time of the issuance of the certificate of cancellation if another corporation or foreign corporation is entitled to use such name or such name is then reserved as provided in this chapter.

Sec. 13. Section 504A.100, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. As to domestic corporations such instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office~~, and the same shall be filed and recorded in the office of the county recorder~~.

~~If the county of the initial registered office as stated in such instrument is one which is other than the county wherein the principal office or place of business of such corporation, as theretofore designated in its articles of incorporation, was located, the secretary of state shall forward also to the county recorder of the county in which the said principal office or place of business of said corporation was located a copy of such instrument and the secretary shall forward to the recorder of the county in which the initial registered office of such corporation is located, in addition to the original of such instrument, a copy of the articles of incorporation of said corporation together with all amendments thereto as then on file in the secretary of state's office.~~

Sec. 14. Section 558.66, unnumbered paragraph 2, Code 1993, is amended to read as follows:

An affidavit of or on behalf of a surviving spouse may be ~~filed~~ recorded with the ~~auditor~~ county recorder only when real estate owned by a decedent, who died on or after January 1, 1988, was held in joint tenancy with right of survivorship solely with the surviving spouse and shall be in the following form:

Approved May 11, 1993

CHAPTER 110

FINES AND PENALTIES – COLLECTION AND DISPOSITION – MINIMUM FINES

S.F. 370

***AN ACT** relating to setting minimum fines for certain criminal convictions, increasing the civil penalty assessed for certain motor vehicle license revocations, collecting delinquent fines, penalties, costs, and restitution, and allowing community service in lieu of a fine.

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

Section 1. Section 321J.17, Code 1993, is amended to read as follows:

321J.17 CIVIL PENALTY – VICTIM COMPENSATION FUND – REINSTATEMENT.

When the department revokes a person's motor vehicle license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of ~~one~~ two hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section 912.14 and one-half of the money shall be deposited in the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 2. Section 331.756, subsection 5, Code 1993, 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, including private attorneys, which are generally considered to have knowledge and

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

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~~ file with 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. 3. Section 331.756, subsection 5, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All fines, penalties, court costs, fees, and restitution for court-appointed attorney fees or expenses of a public defender which are delinquent as defined in section 602.8107 may be collected by the county attorney or the person procured or designated by the county attorney. In order to receive a percentage of the amounts collected pursuant to section 602.8107, the county attorney must file with the clerk of the district court a notice of full commitment to collect delinquent obligations. The notice shall contain a list of procedures which will be initiated by the county attorney. Amounts collected by the county attorney or the person procured or designated by the county attorney shall be distributed in accordance with section 602.8107.

Sec. 4. Section 331.756, subsection 64A, Code 1993, is amended by striking the subsection.

Sec. 5. Section 421.17, subsection 25, Code 1993, 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, 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 ~~county attorney~~ clerk of the district court shall obtain and forward to the department the full name and social security number of the debtor. The department shall cooperate in the exchange of relevant information with the ~~county attorney~~ clerk of the district court. However, only relevant information required by the ~~county attorney~~ clerk of the district court shall be provided by the department. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The ~~county attorney~~ clerk of the district court, 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 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 county attorney~~ Upon submission of a claim the department shall send written notification to the debtor of the ~~county attorney's~~ clerk of the district court'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 county attorney shall send a copy of the notice to the department.~~

~~f~~ e. Upon the request of a debtor or a debtor's spouse to the ~~county attorney~~ department, 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 county attorney shall notify the department of the request to divide a joint income tax refund or rebate. The~~ 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~~ f. The department shall~~, after notice has been sent to the debtor by the county attorney,~~ set off the debt against, and deduct a fee established by rule to reflect the cost of processing from the debtor's income tax refund or rebate. The department shall transfer ~~sixty-five~~ ninety percent of the amount set off to the treasurer of state for deposit in the general fund of the state. The remaining ~~thirty-five~~ ten percent shall be remitted to the ~~county and deposited in the general fund of the county~~ judicial department and used to defray the costs of this procedure. 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 county attorney shall notify the debtor in writing upon completion of setoff.~~

g. The department shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected.

Sec. 6. Section 421.17, subsection 26, Code 1993, 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 ~~county attorney~~ clerk of the district court under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Sec. 7. Section 602.8102, subsection 164, Code 1993, is amended by striking the subsection.

Sec. 8. NEW SECTION. 602.8107 COLLECTION OF FINES, PENALTIES, FEES, COURT COSTS, SURCHARGES, INTEREST, AND RESTITUTION.

1. Fines, penalties, court costs, fees, interest, restitution for court-appointed attorney fees, and surcharges shall be paid to the clerk of the district court. All amounts collected shall be distributed pursuant to sections 602.8106 and 602.8108 or as otherwise provided by this Code. The clerk may accept payment of an obligation or a portion thereof by credit card. The clerk may charge a fee to reflect the additional cost of processing the payment by credit card.

2. Payments received under this section shall be applied in the following priority order:

a. Fines or penalties plus any interest due on unsatisfied judgments and criminal penalty surcharges plus interest due on unsatisfied amounts.

b. Victim restitution.

c. Court costs.

d. Court-appointed attorney fees or public defender expenses.

3. A fine, penalty, court cost, fee, or surcharge is deemed delinquent if it is not paid within six months after the date it is assessed. An amount which was ordered by the court to be paid on a date fixed in the future pursuant to section 909.3 is deemed delinquent if it is not received by the clerk within six months after the fixed future date set out in the court order. If an amount was ordered to be paid by installments, and an installment is not received within

thirty days after the date it is due, the entire amount of the judgment is deemed delinquent.

4. All fines, penalties, court costs, fees, surcharges, and restitution for court-appointed attorney fees or for expenses of a public defender which are delinquent may be collected by the county attorney or the county attorney's designee. Thirty-five percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required in section 331.756, subsection 5, unless the county attorney has discontinued collection efforts on a particular delinquent amount and has transferred collection responsibilities to the department of revenue and finance. The remainder shall be paid to the clerk for distribution under section 602.8108.

This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

The county attorney shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of the moneys collected in satisfaction of the obligation. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

5. If a county attorney has not filed a notice of commitment to collect delinquent obligations pursuant to section 331.756, subsection 5, or has transferred collection responsibility for a particular delinquent amount to the department, the department of revenue and finance or its designee may collect delinquent fines, penalties, court costs, surcharges, restitutions for court-appointed attorney fees, or expenses of a public defender. From the amounts collected, the department shall pay for the services of its designee and the remainder shall be deposited in the general fund of the state.

This subsection does not apply to amounts collected for victim restitution, the new victim restitution fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

The department of revenue and finance or its collection designee shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of the moneys collected in satisfaction of the obligation. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

Sec. 9. Section 902.9, subsections 3 and 4, Code 1993, are amended to read as follows:

3. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition may be sentenced to a fine of at least five hundred dollars but not more than ten thousand dollars.

4. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition may be sentenced to a fine of at least five hundred dollars but not more than seven thousand five hundred dollars. A class "D" felon, such felony being for a violation of section 321J.2, may be sentenced to imprisonment for up to one year in the county jail.

Sec. 10. Section 903.1, subsections 1 and 2, Code 1993, are amended to read as follows:

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, ~~if such be the sentence~~ which fine shall not be suspended by the court, within the following limits:

a. For a simple misdemeanor, either imprisonment not to exceed thirty days, or a fine of at least fifty dollars but not to exceed one hundred dollars.

b. For a serious misdemeanor, there shall be a fine of at least two hundred fifty dollars but not to exceed one thousand five hundred dollars. In addition, the court may also order imprisonment not to exceed one year~~, or a fine not to exceed one thousand dollars, or both~~.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years~~, or~~. There shall be a fine of at least five hundred dollars but not to exceed five thousand dollars~~, or both~~. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

Sec. 11. Section 909.3, Code 1993, is amended to read as follows:

909.3 PAYMENT IN INSTALLMENTS OR ON A FIXED DATE.

1. All fines imposed by the court shall be paid on the day the fine is imposed.

2. The court may, in its discretion, order a fine to be paid in installments, or may fix a date in the future which is not more than one hundred twenty days from the date the fine is imposed for the payment of the fine, whenever it appears that the defendant cannot make immediate payment, or should not be made to do so.

For good cause, the court may order that the date for payment of the fine be extended beyond one hundred twenty days from the date the fine was imposed.

Sec. 12. NEW SECTION. 909.3A COMMUNITY SERVICE OPTION.

The court may, in its discretion, order the defendant to perform community service work of an equivalent value to the fine imposed where it appears that the community service work will be adequate to deter the defendant and to discourage others from similar criminal activity. The rate at which community service shall be calculated shall be the federal minimum wage.

Sec. 13. Section 909.6, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If a court imposes a fine on an offender, the court shall impose interest charges on any amount remaining unsatisfied from the day after sentencing at the rate provided in section 535.3.

NEW UNNUMBERED PARAGRAPH. At the time of imposing the sentence, the court shall inform the offender of the amount of the fine and that the judgment includes the imposition of a criminal surcharge, court costs, and applicable fees. The court shall also inform the offender of the duty to pay the judgment in a timely manner and that interest will be charged on unsatisfied judgments.

Sec. 14. Section 909.7, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A defendant who proves that the defendant cannot pay the fine may, at the discretion of the court, be ordered to perform community service pursuant to section 909.3A.

Sec. 15. Section 909.8, Code 1993, is amended to read as follows:

909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL PENALTY SURCHARGE.

The provisions of this chapter governing the payment and collection of a fine, except section 909.3A, also apply to the payment and collection of a criminal penalty surcharge imposed pursuant to chapter 911.

Sec. 16. Section 909.10, if enacted by 1993 Iowa Acts, Senate File 267,* section 22, is amended to read as follows:

909.10 COLLECTION OF DELINQUENT AMOUNTS BY THE COURT.

1. As used in this section, unless the context otherwise requires, "delinquent amounts" means a fine, court-imposed court costs in a criminal proceeding, or criminal surcharge imposed pursuant to section 911.2, which remains unpaid after two years from the date that the fine, court costs, or surcharge was imposed, and which is not collected by the county attorney pursuant to section ~~909.9~~ 602.8107. However, if the fine may be paid in installments pursuant to section

*Chapter 171 herein

909.3, the fine is not a delinquent amount unless the installment remains unpaid after two years from the date the installment was due.

2. Notwithstanding the disposition sections of sections 602.8106 and 911.3, upon the collection of delinquent amounts, the clerks of the district court shall remit the delinquent amounts to the treasurer of state for deposit into the revolving fund established pursuant to section 602.1302, to be used for the payment of jury and witness fees and mileage.

Sec. 17. Section 909.9, Code 1993, is repealed.

Approved May 11, 1993

CHAPTER 111

PROBATE CODE REVISIONS

S.F. 371

AN ACT relating to probate, including certain notice provisions and statutory shares.

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

Section 1. Section 633.42, Code 1993, is amended to read as follows:

633.42 REQUESTS FOR NOTICE.

At any time after the issuance of letters testamentary or of administration upon a decedent's estate, any person interested in the estate may file with the clerk a written request, in ~~duplicate~~ triplicate, for notice of the time and place of all hearings in such estate for which notice is required by law, by rule of court, or by an order in such estate. ~~Such~~ The request for notice shall state the name and post-office address of such person and the name and post-office address of the attorney, if any, for the party requesting the notice. The clerk shall docket ~~such~~ the request, and transmit the ~~duplicate~~ duplicates to the personal representative of the estate of the decedent and to the personal representative's attorney of record, if any. Thereafter, the personal representative shall, unless otherwise ordered by the court, serve, by ordinary mail, upon such person, or the person's ~~said~~ attorney, if any, a notice of each ~~such~~ hearing.

Sec. 2. Section 633.219, Code 1993, is amended to read as follows:

633.219 SHARE OF OTHERS THAN SURVIVING SPOUSE.

The ~~portion~~ part of the intestate estate ~~remaining after the payment of the debts and charges, and~~ not ~~distributed~~ passing to the surviving spouse, ~~as provided in this Code,~~ or if there is no surviving spouse, ~~then~~ the ~~remaining~~ entire net estate ~~after payment of the debts and charges, shall descend and be distributed~~ passes as follows:

1. ~~In equal shares to the decedent's children, unless one or more of them is dead, in which case~~ To the issue of ~~such deceased child shall inherit the child's share in accordance with the rules herein prescribed, in the same manner as though said child had outlived the child's parents~~ the decedent per stirpes.

2. If there is no ~~person to take under subsection 1 of this section, then to the~~ surviving issue, to the parents ~~in equal shares~~ of the decedent equally; and if either parent is dead, the portion that would have gone to such deceased parent, shall go to the survivor.

3. If there is no person to take under either subsection 1 or 2 of this section, ~~the portion uninherited shall go to such persons as would have been entitled to take if the parents of the decedent had outlived the intestate and had died in possession and ownership of the portion thus falling to their share, and so on, through their ascending ancestors and their heirs~~ to the issue of the parents or either of them per stirpes.

4. If ~~heirs are not thus found~~ there is no person to take under subsection 1, 2 or 3 of this section, ~~the portion uninherited shall go to the spouse of the intestate; and if the spouse is dead, then to the heirs of the spouse, according to like rules. If such intestate has had more than one spouse who either died or survived in lawful wedlock, it shall be equally divided between the one who is living and the heirs of those who are dead, or between the heirs of all such heirs, taking per stirpes and not per capita~~ but the decedent is survived by one or more grandparents or issue of grandparents, half the estate passes to the paternal grandparents, if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased, the issue taking per stirpes, and the other half passes to the maternal relatives in the same manner; but if there is no surviving grandparent or issue of grandparent on one side, the entire estate passes to the relatives of the other side in the same manner as the half.

5. If there is no person to take under subsection 1, 2, 3, or 4 of this section, the portion uninherited shall go to the issue of the deceased spouse of the intestate, per stirpes. If the intestate has had more than one spouse who died in lawful wedlock, it shall be equally divided between the issue, per stirpes, of those deceased spouses.

~~5~~ 6. If there is no person who qualifies under either subsection 1, 2, 3, ~~or~~ 4, or 5 of this section, the intestate property shall escheat to the state of Iowa.

Sec. 3. Section 633.304, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under subsection 1, 2, or 3 of section 633.219.

Sec. 4. Section 633.305, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. As used in this section, "heir" means only such person as would, in an intestate estate, be entitled to a share under subsection 1, 2, or 3 of section 633.219.

Approved May 11, 1993

CHAPTER 112

OFFENSE OF TERRORISM

H.F. 83

AN ACT relating to the offense of terrorism and providing penalties and providing an effective date.

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

Section 1. Section 708.6, Code 1993, is amended to read as follows:

708.6 TERRORISM.

A person commits a class ~~"D"~~ "C" felony when the person, with the intent to injure or provoke fear or anger in another, shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

A person commits a class "D" felony when the person shoots, throws, launches, or discharges a dangerous weapon at, into, or in a building, vehicle, airplane, railroad engine, railroad car, or boat, occupied by another person, or within an assembly of people, and thereby places the occupants or people in reasonable apprehension of serious injury or threatens to commit such an act under circumstances raising a reasonable expectation that the threat will be carried out.

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

Approved May 11, 1993

CHAPTER 113

INTERNAL REVENUE CODE REFERENCES

H.F. 111

AN ACT updating the Iowa Code references 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 4, Code 1993, is amended to read as follows:

4. "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, ~~1992~~ 1993, whichever is applicable.

Sec. 2. Section 422.10, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state. For individuals, the credit equals six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to total qualified research expenditures. For purposes of this section, an individual may claim a research credit for qualifying research expenditures incurred by a partnership, subchapter S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, subchapter S corporation, estate, or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1991~~ 1993.

Sec. 3. Section 422.33, subsection 5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The taxes imposed under this division shall be reduced by a state tax credit for increasing research activities in this state equal to six and one-half percent of the state's apportioned share of the qualifying expenditures for increasing research activities. The state's apportioned share of the qualifying expenditures for increasing research activities is a percent equal to the ratio of qualified research expenditures in this state to the total qualified research expenditures. For purposes of this subsection, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, ~~1991~~ 1993.

Sec. 4. This Act applies retroactively to January 1, 1992, for tax years beginning on or after that date.

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

Approved May 11, 1993

CHAPTER 114

TRAFFIC VIOLATIONS IN ROAD CONSTRUCTION ZONE
H.F. 193

AN ACT relating to increasing the scheduled fine for traffic violations in a road construction zone.

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

Section 1. Section 321.1, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 64A. "Road construction zone" means the portion of a highway which is identified by posted or moving signs as being under construction. The zone starts upon meeting the first sign identifying the zone and continues until a posted or moving sign indicates that the construction zone has ended.

Sec. 2. Section 321.253, Code 1993, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. The department shall post signs informing motorists that the scheduled fine for committing a moving traffic violation in a road construction zone is doubled or is one hundred dollars, whichever is less.

Sec. 3. Section 805.8, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 2A. MOVING TRAFFIC VIOLATIONS — CONSTRUCTION ZONES. The scheduled fine for any moving traffic violations under chapter 321 as provided in this section shall be doubled or shall be set at one hundred dollars, whichever is less, if the violation occurs within any road construction zone, as defined in section 321.1.

Approved May 11, 1993

CHAPTER 115

FINGERPRINT RECORDS AND CRIMINAL HISTORY DATA
H.F. 263

***AN ACT** relating to requirements for fingerprint reporting and access by individuals and their attorneys to criminal history data.

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

Section 1. Section 690.2, Code 1993, is amended to read as follows:
690.2 FINGER AND PALM PRINTS — DUTY OF SHERIFF AND CHIEF OF POLICE.
~~It shall be the duty of the~~ The sheriff of every county, and the chief of police of each city regardless of the form of government thereof ~~and having a population of ten thousand or over~~,

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

~~to~~ shall take the fingerprints of all ~~persons held either for investigation, for the commission of a felony, as a fugitive from justice, or for bootlegging, the maintenance of an intoxicating liquor nuisance, manufacturing intoxicating liquor, operating a motor vehicle while under the influence of an alcoholic beverage or for illegal transportation of intoxicating liquor, and to take the fingerprints of all~~ unidentified dead bodies in their respective jurisdictions, and all persons who are taken into custody for the commission of a serious misdemeanor, aggravated misdemeanor, or felony and ~~to~~ shall forward such fingerprint records on such forms and in such manner as may be prescribed by the commissioner of public safety, within ~~forty-eight hours~~ two working days after the ~~same~~ fingerprint records are taken, to the ~~bureau of criminal~~ department of public safety and, if appropriate, to the federal bureau of investigation. ~~If the fingerprints of any person are taken under the provisions hereof whose fingerprints are not already on file, and said person is not convicted of any offense, then said fingerprint records shall be destroyed by any officer having them.~~ Fingerprints may be taken of a person who has been arrested for a public offense subject to an enhanced penalty for conviction of a second or subsequent offense. In addition to the fingerprints as herein provided any such officer may also take the photograph and palm prints of any such person and forward them to the department of public safety. If a defendant is convicted by a court of this state of an offense which is a serious misdemeanor, aggravated misdemeanor, or felony, the court shall determine whether such defendant has previously been fingerprinted in connection with the criminal proceedings leading to the conviction and, if not, shall order that the defendant be fingerprinted and those prints submitted to the department of public safety.

Sec. 2. Section 690.4, Code 1993, is amended to read as follows:

690.4 FINGERPRINTS AND PHOTOGRAPHS AT INSTITUTIONS.

~~It shall be the duty of the wardens~~ The warden of the ~~penitentiary and men's reformatory,~~ Iowa medical and classification center and ~~superintendents~~ superintendent of the ~~Iowa correctional institution for women, and the~~ state training school ~~to~~ shall take or procure the taking of the fingerprints, and, in the case of the ~~penitentiary, men's reformatory, and Iowa correctional institution for women~~ Iowa medical and classification center only, Bertillon photographs of any person received on commitment to their respective institutions, and ~~to~~ shall forward such fingerprint records and photographs within ten days after ~~the same~~ they are taken to the ~~division of criminal investigation and bureau of identification, Iowa~~ department of public safety, and to the federal bureau of investigation. Information obtained from fingerprint cards submitted pursuant to this section may be retained by the department of public safety as criminal history records. If a charge for a serious misdemeanor, aggravated misdemeanor, or felony is brought against a person already in the custody of a law enforcement of* correctional agency and the charge is filed in a case separate from the case for which the person was previously arrested or confined, the agency shall take the fingerprints of the person in connection with the new case and submit them to the department of public safety.

The wardens and superintendents of all department of corrections' facilities shall procure the taking of a photograph showing ~~a full length view~~ the facial features of each inmate of a state correctional institution ~~in the inmate's release clothing immediately~~ prior to the inmate's discharge ~~from the institution either upon expiration of sentence or commitment or on parole, and shall forward the photograph within two days after it is taken.~~ The photograph shall be placed in the inmate's file and shall be made available to the ~~division of criminal investigation and bureau of identification,~~ Iowa department of public safety upon request.

Sec. 3. NEW SECTION. 690.5 ADMINISTRATIVE SANCTIONS.

An agency subject to fingerprinting and disposition requirements under this chapter shall take all steps necessary to ensure that all agency officials and employees understand the requirements and shall provide for and impose administrative sanctions, as appropriate, for failure to report as required.

If a criminal justice agency subject to fingerprinting and disposition requirements fails to comply with the requirements, the commissioner of public safety shall order that the agency's

*"or" probably intended

access to criminal history record information maintained by the repository be denied or restricted until the agency complies with the reporting requirements.

The state court administrator shall develop a policy to ensure that court personnel understand and comply with the fingerprinting and disposition requirements and shall also develop sanctions for court personnel who fail to comply with the requirements.

Sec. 4. Section 692.2, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. A person or the person's attorney but only with regard to the person's own criminal history data, subject to the identification and fee requirements of section 692.2, subsection 6, and section 692.5.

Sec. 5. Section 692.5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Any person or the person's attorney ~~with written authorization and fingerprint identification~~ shall have the right to examine and obtain a copy of criminal history data filed with the ~~bureau~~ department that refers to the person. The person or person's attorney shall present or mail to the department written authorization and the person's fingerprint identification. The department shall not copy the fingerprint identification and shall return or destroy the identification after the copy of the criminal history data is made. The ~~bureau~~ department may prescribe reasonable hours and places of examination.

Sec. 6. Section 692.15, Code 1993, is amended to read as follows:

692.15 REPORTS TO DEPARTMENT.

1. ~~When~~ If it comes to the attention of a sheriff, police department, or other law enforcement agency that a public offense has been committed in its jurisdiction, ~~it shall be the duty of~~ the law enforcement agency ~~to~~ shall report information concerning such ~~crimes~~ a public offense to the ~~bureau~~ department on a form to be furnished by the ~~bureau~~ department not more than thirty-five days from the time the ~~crime~~ public offense first comes to the attention of ~~such~~ the law enforcement agency. ~~These~~ The reports shall be used to generate crime statistics. The ~~bureau~~ department shall submit statistics to the governor, ~~legislature~~ the general assembly, and the division of criminal and juvenile justice planning of the department of human rights on a quarterly and yearly basis.

2. ~~When~~ If a sheriff, police department, or other law enforcement agency makes an arrest which is reported to the ~~bureau~~ department, the arresting law enforcement agency and any other law enforcement agency which obtains custody of the arrested person shall furnish a disposition report to the ~~bureau whenever~~ department if the arrested person is transferred to the custody of another law enforcement agency or is released without having a complaint or information filed with any court.

3. The law enforcement agency making an arrest and securing fingerprints pursuant to section 690.2 shall fill out a final disposition report on each arrest on a form and in the manner prescribed by the commissioner of public safety. The final disposition report shall be forwarded to the county attorney in the county where the arrest occurred.

4. The county attorney of each county shall complete the final disposition report and submit it to the department within thirty days if a preliminary information or citation is dismissed without a new charge being filed. If an indictment is returned or a county attorney's information is filed, the final disposition form shall be forwarded to the clerk of the district court of that county.

5. ~~Whenever~~ If a criminal complaint or information is filed in any court, the clerk shall furnish a disposition report of ~~such~~ the case.

6. ~~The~~ Any disposition report~~, whether by a law enforcement agency or court,~~ shall be sent to the ~~bureau~~ department within thirty days after disposition on a form provided by the ~~bureau~~ department.

7. The hate crimes listed in section 729A.2 are subject to the reporting requirements of this section.

Sec. 7. Section 692.16, Code 1993, is amended to read as follows:

692.16 REVIEW AND REMOVAL.

At least every year the bureau shall review and determine current status of all Iowa arrests reported, which are at least one year old with no disposition data. Any Iowa arrest recorded within a computer data storage system which has no disposition data after ~~five~~ four years shall be removed unless there is an outstanding arrest warrant or detainer on such charge.

Sec. 8. Section 692.17, Code 1993, is amended to read as follows:

692.17 EXCLUSIONS — PURPOSES.

Criminal history data in a computer data storage system shall not include arrest or disposition data after the person has been acquitted or the charges dismissed.

For the purposes of this section, "criminal history data" includes information maintained by any criminal justice agency if the information otherwise meets the definition of criminal history data set forth in section 692.1 and also includes the source documents of the information included in the criminal history data and fingerprint records.

Criminal history data may be collected for management or research purposes.

Approved May 11, 1993

CHAPTER 116

FILING OF CERTAIN BIRTH CERTIFICATES

H.F. 348

AN ACT relating to the filing of certain birth certificates.

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

Section 1. Section 144.13, subsection 4, Code 1993, is amended to read as follows:

4. In the case of a child born out of wedlock, the certificate shall be filed directly with the state registrar. On a monthly basis, the state registrar shall transmit to the appropriate county boards of health such birth certificates for the sole purpose of identifying those children in need of innoculations.*

If the mother was married either at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

If the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as the father, unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered by the department.

Approved May 11, 1993

*According to enrolled Act

CHAPTER 117

SCHOOLS – POSTSECONDARY ENROLLMENT COSTS – ORGANIZATION MEMBERSHIPS

H.F. 384

AN ACT relating to tuition reimbursements of postsecondary institutions by school districts under the postsecondary enrollment options Act and membership in organizations relating to duties of a board of directors of a school corporation.

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

Section 1. Section 261C.8, Code 1993, is amended to read as follows:

261C.8 PROHIBITION ON CHARGES.

An eligible postsecondary institution that enrolls an eligible pupil under this chapter shall not charge that pupil for tuition, textbooks, materials, or fees directly related to the course in which the pupil is enrolled except that the pupil may be required to purchase equipment that becomes the property of the pupil. However, if the pupil fails to complete and receive credit for the course, the pupil is responsible for all costs directly related to the course as provided in section 261C.6 and shall reimburse the school district for its costs. If the pupil is under eighteen years of age, the pupil's parent, guardian, or custodian shall sign the student registration form indicating that the parent, guardian, or custodian is responsible for all costs directly related to the course, if the pupil fails to complete and receive credit for the course.

If the local area education agency verifies that the pupil was unable to complete the course for reasons including but not limited to the pupil's physical incapacity, death in the family, or the pupil's move to another school district, a verification by the area education agency shall constitute a waiver to the requirement that the pupil, pupil's parent, guardian, or legal custodian pay the costs of the course to the school district.

Sec. 2. NEW SECTION. 261C.9 TUITION REFUND.

An eligible postsecondary institution shall make pro rata adjustments to tuition reimbursement amounts based upon federal guidelines established pursuant to 20 U.S.C. § 1091b.

Sec. 3. NEW SECTION. 279.38A MEMBERSHIP IN OTHER ORGANIZATIONS.

Duly elected members of boards of directors and designated administrators of school corporations may join, including the payment of dues, and participate in local, regional, and national organizations which directly relate to the functions of the board of directors.

Approved May 11, 1993

CHAPTER 118

AVIATION AUTHORITY BONDS

H.F. 472

AN ACT relating to bonds issued by airport authorities.

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

Section 1. Section 330A.9, subsections 1 and 2, Code 1993, are amended to read as follows:

1. The bonds issued by an authority pursuant to this chapter shall be authorized by resolution of the board ~~thereof~~ and shall be either term or serial bonds, shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rate or rates, not exceeding that permitted by chapter 74A payable semiannually, be

in such denominations, be in such form, either coupon or fully registered, shall carry such registration, exchangeability and interchangeability privileges, be payable in such medium of payment and at such place or places, within or without the state, be subject to such terms of redemption and be entitled to such priorities on the revenues, rates, fees, rentals, or other charges or receipts of the authority as ~~such~~ the resolution or any subsequent resolution ~~subsequent thereto~~ may provide. The bonds shall be executed either by manual or facsimile signature by ~~such~~ the officers as an authority shall determine, provided that ~~such~~ the bonds shall bear at least one signature which is manually executed thereon, and the coupons attached to ~~such~~ the bonds shall bear the facsimile signature or signatures of ~~such~~ the officer or officers as shall be designated by an authority and the bonds shall have the seal of the authority, affixed, imprinted, reproduced, or lithographed thereon, all as may be prescribed in ~~such~~ the resolution or resolutions. ~~Said~~ The bonds ~~shall~~ may be sold at public or private sale at ~~such~~ the price or prices as the authority shall determine to be in the best interests of the authority ~~provided that such bonds shall not be sold at less than the par value thereof, plus accrued interest and provided that.~~ However, the net interest cost shall not exceed that permitted by chapter 74A. Pending the preparation of definitive bonds, interim certificates or temporary bonds may be issued to the purchaser or purchasers of ~~such~~ the bonds, and may contain ~~such~~ terms and conditions as the authority may determine.

2. An authority shall have the power, at any time and from time to time after the issuance of bonds ~~thereof~~ shall have been authorized, to borrow money for the purposes for which ~~such~~ the bonds are to be issued in anticipation of the receipt of the proceeds of the sale of ~~such~~ the bonds and within the authorized maximum amount of ~~such~~ the bond issue. Any ~~such~~ loan shall be paid within three years after the date of the initial loan. Bond anticipation notes shall be issued for all moneys ~~so~~ borrowed under ~~the provisions of~~ this section, and ~~such~~ the notes may be renewed from time to time, but all ~~such~~ renewal notes shall mature within the time above limited for the payment of the initial loan. ~~Such~~ The notes shall be authorized by resolution of the board and shall be in such denomination or denominations, shall bear interest at such rate or rates not exceeding the maximum rate permitted by the resolution authorizing the issuance of the bonds, shall be in such form and shall be executed in such manner, all as ~~such~~ the authority shall prescribe. ~~Such~~ The notes ~~shall~~ may be sold at public or private sale or, if ~~such~~ the notes shall be renewal notes, they may be exchanged for notes then outstanding on such terms as the board shall determine. The board may, in its discretion, retire ~~any such~~ the notes from the revenues derived from its aviation facilities or from ~~such~~ other moneys of the authority which are lawfully available ~~therefor~~ or from a combination of each, in lieu of retiring them by means of bond proceeds; ~~provided, however, that.~~ However, before the retirement of ~~such~~ the notes by any means other than the issuance of bonds it shall amend or repeal the resolution authorizing the issuance of the bonds, in anticipation of the proceeds of the sale of which ~~such~~ the notes ~~shall have been~~ were issued, so as to reduce the authorized amount of the bond issue by the amount of the notes ~~so~~ retired. ~~Such~~ The amendatory or repealing resolution ~~shall take~~ takes effect upon its passage.

Approved May 11, 1993

CHAPTER 119

USE OF MOBILE TRANSMITTERS TO HUNT COYOTES
H.F. 533

AN ACT allowing the use of mobile transmitters to hunt coyotes and subjecting violators to an existing scheduled fine.

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

Section 1. Section 481A.24, Code 1993, is amended to read as follows:

481A.24 USE OF MOBILE TRANSMITTER PROHIBITED.

A person who is hunting shall not use a mobile radio transmitter to communicate the location or direction of game or fur-bearing animals or to ~~co-ordinate~~ coordinate the movement of other hunters. This section does not apply to the hunting of coyotes ~~from January 1 through March 31~~ except during the shotgun deer season as set by the commission under section 481A.38.

Approved May 11, 1993

CHAPTER 120

COMMERCIAL WASTE INCINERATORS – MORATORIUM
H.F. 632

AN ACT placing a moratorium on construction and operation of certain commercial waste incinerators and providing an effective date.

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

Section 1. NEW SECTION. 455B.151 MORATORIUM – COMMERCIAL WASTE INCINERATORS.

1. The department shall not grant a permit for the construction or operation of a commercial waste incinerator until such time as the department or the United States environmental protection agency adopts rules which establish safe emission standards for releases of toxic air emissions from commercial waste incinerators.

2. For purposes of this section:

a. "Commercial waste incinerator" means an incinerator which burns waste, at least one-third of which is waste as defined by paragraph "c", and the owner or operator of the incinerator derives at least one-third of its expenditures or profits from the incineration of the waste as defined in paragraph "c". A commercial waste incinerator does not include those facilities that use incineration as an emission control device to comply with the federal Clean Air Act Amendments of 1990 or those facilities which use incineration only as part of their waste reduction programs for reducing waste produced by that facility.

b. "Incinerator" means any enclosed combustion device including a boiler, an industrial furnace, a waste-to-energy facility, a kiln, and a cogeneration unit.

c. "Waste" means toxic or hazardous waste as identified and included in the consolidated chemical list pursuant to Title III of the federal Superfund Amendments and Reauthorization Act of 1986, or substances which have been treated with a toxic or hazardous waste. "Waste" does not include waste oil which is burned under federal environmental protection agency guidelines for purposes of volume reduction, heat production, or energy cogeneration.

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

Approved May 11, 1993

CHAPTER 121

METHANE GAS CONVERSION PROPERTY — PROPERTY TAX EXEMPTION
H.F. 656

AN ACT relating to exempting methane gas conversion property from taxation.

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

Section 1. Section 427.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 43. METHANE GAS CONVERSION. Methane gas conversion property shall be exempt from taxation.

For purposes of this subsection, "methane gas conversion property" means personal property, real property, and improvements to real property, and machinery, equipment, and computers assessed as real property pursuant to section 427A.1, subsection 1, paragraphs "e" and "j", used in an operation connected with a publicly owned sanitary landfill to collect methane gas or other gases produced as a byproduct of waste decomposition and to convert the gas to energy.

If the property used to convert the gas to energy also burns another fuel, the exemption shall apply to that portion of the value of such property which equals the ratio that its use of methane gas bears to total fuel consumed.

Application for this exemption shall be filed with the assessing authority not later than February 1 of each year for which the exemption is requested on forms provided by the department of revenue and finance. The application shall describe and locate the specific methane gas conversion property to be exempted. If the property consuming methane gas also consumes another fuel, the first year application shall contain a statement to that effect and shall identify the other fuel and estimate the ratio that the methane gas consumed bears to the total fuel consumed. Subsequent year applications shall identify the actual ratio for the previous year which ratio shall be used to calculate the exemption for that assessment year.

Approved May 11, 1993

CHAPTER 122

SALES AND USE TAX EXEMPTION FOR CERTAIN DRUGS AND DEVICES
H.F. 661

AN ACT relating to the exemption from the state sales tax for certain prescription drugs and medical devices and providing for the Act's applicability.

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

Section 1. Section 422.45, subsection 13, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

13. The gross receipts from the sale or rental of prescription drugs or medical devices intended for human use or consumption.

For the purposes of this subsection:

a. "Medical device" means equipment or a supply, intended to be prescribed by a practitioner, including orthopedic or orthotic devices. However, "medical device" also includes prosthetic devices, ostomy, urological, and tracheostomy equipment and supplies, and diabetic testing materials, hypodermic syringes, and oxygen equipment, intended to be dispensed for human use with or without a prescription to an ultimate user.

b. "Practitioner" means a practitioner as defined in section 155A.3, or a person licensed to prescribe drugs.

c. "Prescription drug" means a drug intended to be dispensed to an ultimate user pursuant to a prescription drug order or medication order from a practitioner, or oxygen or insulin dispensed for human consumption with or without a prescription drug order or medication order.

d. "Ultimate user" means an individual who has lawfully obtained and possesses a prescription drug or medical device for the individual's own use or for the use of a member of the individual's household, or an individual to whom a prescription drug or medical device has been lawfully supplied, administered, dispensed, or prescribed.

Sec. 2. Section 422.45, subsections 13A, 14, 15, and 16, Code 1993, are amended by striking the subsections.

Sec. 3. 1992 Iowa Acts, chapter 1189, section 5, is repealed and the repeal applies retroactively to January 1, 1987. Any claims filed pursuant to 1992 Iowa Acts, chapter 1189, section 5, for the period between January 1, 1987, and June 30, 1992, shall not be allowed.

Approved May 11, 1993

CHAPTER 123

INCOME TAX — FILING REQUIREMENTS

H.F. 666

AN ACT relating to the requirement for filing a state individual income tax return and providing a retroactive applicability date provision.

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

Section 1. Section 422.13, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~A~~ Except as provided in subsection 1A, a resident or nonresident of this state shall make a return, signed in accordance with forms and rules prescribed by the director, if any of the following are applicable:

Sec. 2. Section 422.13, subsection 1, paragraphs b and c, Code 1993, are amended to read as follows:

b. The individual is claimed as a dependent on another person's return and has net income of ~~three~~ four thousand dollars or more for the tax year from sources taxable under this division.

c. However, if that part of the net income of a nonresident which is allocated to Iowa pursuant to section 422.8, subsection 2 is less than ~~five hundred~~ one thousand dollars the nonresident is not required to make and sign a return.

Sec. 3. Section 422.13, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding any other provision in this section, a resident of this state is not required to make and file a return if the person's net income is equal to or less than the appropriate dollar amount listed in section 422.5, subsection 2, upon which tax is not imposed. A nonresident of this state is not required to make and file a return if the person's total net income in section 422.5, subsection 1, paragraph "j", is equal to or less than the appropriate dollar amount provided in section 422.5, subsection 2, upon which tax is not imposed. For purposes of this subsection, the amount of a lump sum distribution subject to separate federal tax shall be included in net income for purposes of determining if a resident is required to file a return and the portion of the lump sum distribution that is allocable to Iowa is included in total net income for purposes of determining if a nonresident is required to make and file a return.

Sec. 4. This Act applies retroactively to January 1, 1993, for tax years beginning on or after that date.

Approved May 11, 1993

CHAPTER 124

CONSUMER CREDIT TRANSACTIONS – DELINQUENCY CHARGES
H.F. 382

AN ACT relating to delinquency charges on, and the conversion of, certain consumer transactions.

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

Section 1. Section 537.2502, subsection 1, paragraph a, Code 1993, is amended to read as follows:

a. ~~One and one-half~~ Five percent of the unpaid amount of the installment, or a maximum of ~~five~~ twenty dollars.

Approved May 12, 1993

CHAPTER 125

ENHANCED 911 EMERGENCY TELEPHONE SERVICE
H.F. 388

AN ACT relating to establishing statewide implementation of 911 telephone services and providing for the funding of such services.

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

Section 1. Section 34A.2, subsection 6, paragraph e, Code 1993, is amended to read as follows:

e. A statement of estimated costs to be incurred by the joint E911 service board, including separate estimates of the following:

(1) Nonrecurring costs, including, but not limited to, public safety answering points, network equipment, software, database, addressing, initial training, and other capital and start-up expenditures, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider.

(2) Recurring costs, including, but not limited to, network access fees and other telephone charges, software, equipment, and database management, and maintenance, including the purchase or lease of subscriber names, addresses, and telephone information from the local exchange service provider. Recurring costs shall not include personnel costs for a public safety answering point.

Costs are limited to nonrecurring and recurring costs directly attributable to the provision of 911 emergency telephone communication service and may include costs for portable and vehicle radios, communication towers, and other radios and equipment permanently located at the public safety answering point. Costs do not include expenditures for any other purpose,

and specifically exclude costs attributable to other emergency services or expenditures for buildings~~, radios,~~ or personnel, except for the costs of personnel for database management and personnel directly associated with addressing.

Sec. 2. Section 34A.3, subsection 1, Code 1993, is amended to read as follows:

1. Joint 911 service boards to submit plans. The board of supervisors of each county shall establish a joint 911 service board not later than January 1, 1989. Each political subdivision of the state having a public safety agency serving territory within the county is entitled to voting membership on the joint 911 service board. Each private safety agency operating within the area is entitled to nonvoting membership on the board. A township which does not operate its own public safety agency, but contracts for the provision of public safety services, is not entitled to membership on the joint 911 service board, but its contractor is entitled to membership according to the contractor's status as a public or private safety agency. The joint 911 service board shall develop an enhanced 911 service plan encompassing at minimum the entire county, unless an exemption is granted by the administrator permitting a smaller E911 service area. The administrator may grant a discretionary exemption from the single county minimum service area requirement based upon an E911 joint service board's or other E911 service plan operating authority's presentation of evidence which supports the requested exemption if the administrator finds that local conditions make adherence to the minimum standard unreasonable or technically infeasible, and that the purposes of this chapter would be furthered by granting an exemption. The minimum size requirement is intended to prevent unnecessary duplication of public safety answering points and minimize other administrative, personnel, and equipment expenses. An E911 service area must encompass a geographically contiguous area. No exemption shall be granted from the contiguous area requirement. The administrator may order the inclusion of a specific territory in an adjoining E911 service plan area to avoid the creation by exclusion of a territory smaller than a single county not serviced by surrounding E911 service plan areas upon request of the joint 911 service board representing the territory. The E911 service plan operating authority shall submit the plan on or before ~~March 1, 1989~~ January 1, 1994, to all of the following:

a. The division.

b. Public and private safety agencies in the enhanced 911 service area.

c. Providers affected by the enhanced 911 service plan.

An E911 joint service board that has a state-approved service plan in place prior to July 1, 1993, is exempt from the provisions of this section. The division shall establish, by July 1, 1994, E911 service plans for those E911 joint service boards which do not have a state-approved service plan in place on or before January 1, 1994.

The division shall prepare a ~~statewide~~ summary of the plans submitted and present the summary to the legislature on or before ~~June 1, 1989~~ August 1, 1994.

Sec. 3. NEW SECTION. 34A.6A ALTERNATIVE SURCHARGE.

Notwithstanding section 34A.6, the board may request imposition of a surcharge in an amount up to two dollars and fifty cents per month on each telephone access line. The board shall submit the question of the surcharge to voters in the same manner as provided in section 34A.6. If approved, the surcharge may be collected for a period of twenty-four months. At the end of the twenty-four-month period, the rate of the surcharge shall revert to one dollar per month, per access line.

Approved May 12, 1993

CHAPTER 126

CORPORATIONS AND OTHER BUSINESS ENTITIES – MISCELLANEOUS PROVISIONS

H.F. 389

AN ACT relating to administrative dissolutions, nonprofit corporations, and foreign corporations, establishing fees for certain filings, and other related matters.

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

Section 1. Section 86.36, subsection 5, Code 1993, is amended to read as follows:

5. "Nonresident employer", as used in section 85.3 and this section does not mean foreign corporations lawfully qualified to transact business within the state of Iowa under ~~chapter 494 or~~ chapter 490.

Sec. 2. Section 423.1, subsection 8, Code 1993, is amended to read as follows:

8. "Retailer maintaining a place of business in this state" or any like term, ~~shall mean and include~~ includes any retailer having or maintaining within this state, directly or by a subsidiary, an office, distribution house, sales house, warehouse, or other place of business, or any agent operating within this state under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent is located here permanently or temporarily, ~~or whether such retailer or subsidiary is admitted to do business within this state pursuant to chapter 494~~.

Sec. 3. Section 423.22, Code 1993, is amended to read as follows:

423.22 REVOKING PERMITS.

If a retailer maintaining a place of business in this state, or authorized to collect the tax imposed pursuant to section 423.10, fails to comply with any of the provisions of this chapter or any orders or rules prescribed and adopted under this chapter, or is substantially delinquent in the payment of a tax administered by the department or the interest or penalty on the tax, or if the person is a corporation and if any officer having a substantial legal or equitable interest in the ownership of the corporation owes any delinquent tax of the permit-holding corporation, or interest or penalty on the tax, administered by the department, the director may, upon notice and hearing as provided, by order revoke the permit, if any, issued to the retailer under section 422.53, ~~or if the retailer is a corporation authorized to do business in this state under chapter 494, may certify to the secretary of state a copy of an order finding that the retailer has failed to comply with specified provisions, orders or rules~~. The secretary of state shall, upon receipt of the certified copy, revoke the permit authorizing the corporation to do business in this state, and shall issue a new permit only when the corporation has obtained from the director an order finding that the corporation has complied with its obligations under this chapter. No order authorized in this section shall be made until the retailer is given an opportunity to be heard and to show cause why the order should not be made, and the retailer shall be given ten days' notice of the time, place, and purpose of the hearing. The director may issue a new permit pursuant to section 422.53 after revocation. The preceding provision applies to users and persons supplying services enumerated in section 422.43.

Sec. 4. Section 468.327, Code 1993, is amended to read as follows:

468.327 TRUSTEE CONTROL.

A district formed pursuant to this part, under the control of a city council, may be placed under the control and management of a board of trustees as provided in subchapter III of this chapter. Each trustee shall be a citizen of the United States not less than eighteen years of age and a bona fide owner of benefited land in the district for which the trustee is elected. If the owner is a family farm corporation as defined by section 9H.1, subsection 8, a business corporation organized and existing under chapter 490, or 491, ~~or 494,~~ or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Sec. 5. Section 468.506, subsection 4, Code 1993, is amended to read as follows:

4. In a district which is a levee and drainage district which has eighty-five percent of its acreage within the corporate limits of a city and has been under the control of a city under subchapter II, part 3, a bona fide owner of benefited land in the district. If the owner is a family farm corporation as defined by section 9H.1, subsection 8, a business corporation organized and existing under chapter 490, or 491, ~~or 494,~~ or a partnership, a stockholder or officer authorized by the corporation or a general partner may be elected as a trustee of the district.

Sec. 6. NEW SECTION. 487.104A CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. A limited partnership may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the limited partnership.

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 addresses of its registered office and the business office of its registered agent will be identical.

2. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any limited partnership for which the person is the registered agent by notifying the limited partnership in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection 1 and recites that the limited partnership has been notified of the change.

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 2 for each limited partnership, or a single statement for all limited partnerships 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 partnership named in the notice.

4. A document delivered to the secretary of state for the purpose of changing a limited partnership's registered agent or registered office may be executed by a general partner.

Sec. 7. Section 490.1422, subsection 1, paragraph d, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

d. State the state tax identification number of the corporation.

Sec. 8. Section 490.1422, subsection 2, Code 1993, is amended to read as follows:

2. a. The secretary of state shall refer the state tax identification number contained in the application for reinstatement to the department of revenue and finance. The department of revenue and finance shall report to the secretary of state the tax status of the corporation. If the department reports to the secretary of state that a filing delinquency or liability exists against the corporation, the secretary of state shall not cancel the certificate of dissolution until the filing delinquency or liability is satisfied.

b. If the secretary of state determines that the application contains the information required by subsection 1, and that a delinquency or liability reported pursuant to paragraph "a" has been satisfied, and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under section 490.504. If the corporate name in

subsection 1, paragraph "c", is different than the corporate name in subsection 1, paragraph "a", the certificate of reinstatement shall constitute an amendment to the articles of incorporation insofar as it pertains to the corporate name.

Sec. 9. Section 490.1701, subsection 6, Code 1993, is amended to read as follows:

6. A corporation subject to this chapter is not subject to chapter 491, 492, 493, ~~494,~~ or 495.

Sec. 10. Section 491.11, Code 1993, is amended to read as follows:

491.11 INCORPORATION FEE.

Corporations organized for a period of years shall pay the secretary of state, before a certificate of incorporation is issued, a fee of ~~twenty-five~~ fifty dollars ~~together with a recording fee of fifty cents per page, and, for all authorized stock in excess of ten thousand dollars, an additional fee of one dollar per thousand. Corporations organized to exist perpetually shall pay to the secretary of state, before a certificate of incorporation is issued, a fee of one hundred dollars together with a recording fee of fifty cents per page, and, for all authorized stock in excess of ten thousand dollars, an additional fee of one dollar ten cents per thousand. Should any corporation increase its capital stock, it shall pay to the secretary of state a recording fee of fifty cents per page and in addition a fee which in case of corporations existing for a period of years shall be one dollar per thousand of such increase and in case of corporations empowered to exist perpetually shall be one dollar and ten cents per thousand of such increase. The fees, except the recording fees, required by this section to be paid, shall not be collected from a corporation organized for the purpose of carrying into effect a plan of reorganization approved in bankruptcy proceedings under the laws of the United States or in a general equity receivership in a court of competent jurisdiction, for the period until the termination of the time for which such fees were paid by the corporation so reorganized~~.

Sec. 11. Section 491.111, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. The appointment of a resident agent as provided for in section ~~494.2, subsection 6~~ 490.501.

Sec. 12. Section 492.9, Code 1993, is amended to read as follows:

492.9 CERTIFICATE OF ISSUANCE OF STOCK.

It shall be the duty of every corporation, except corporations qualified under chapter ~~494 or chapter~~ 534, to file a certificate under oath with the secretary of state, within thirty days after the issuance of any capital stock, stating the date of issue, the amount issued, the sum received therefor, if payment be made in money, or the property or thing taken, if such be the method of payment. If the corporation fails to file said certificate of issuance of stock within the thirty-day period herein provided, it may thereafter file the same upon first paying to the secretary of state a penalty of ten dollars when the said certificate is offered for filing. Provided further that the penalty herein provided for is first paid and provided the said report contains the specific information required by this section as to the issuance of any capital stock not previously reported, then the first annual report filed by such corporation following such failure to comply with the provisions of this section, shall be received by the secretary of state as a compliance with this section.

Sec. 13. Section 495.1, Code 1993, is amended to read as follows:

495.1 CAPITAL STOCK AND PERMIT.

Sections 492.5 to 492.9 ~~and 494.1 to 494.10~~ are ~~hereby made~~ applicable to any foreign corporation which directly or indirectly owns, uses, operates, controls, or is concerned in the operation of any public gasworks, electric light plant, heating plant, waterworks, interurban or street railway located within the state, or the carrying on of any gas, electric light, electric power, heating business, waterworks, interurban or street railway business within the state, or that owns or controls, directly or indirectly, any of the capital stock of any corporation which owns, uses, operates or is concerned in the operation of any public gasworks, electric light plant, electric power plant, heating plant, waterworks, interurban or street railway located within the state, or any foreign corporation that exercises any control in any way or in any manner over any of ~~said~~ such works, plants, interurban or street railways or the business carried on

by ~~said~~ such works, plants, interurban or street railways by or through the ownership of the capital stock of any corporation or corporations or in any other manner whatsoever, and the ownership, operation, or control of any such works, plants, interurban or street railways or the business carried on by any of such works or plants or the ownership or control of the capital stock in any corporation owning or operating any of such works, plants, interurban or street railways by any foreign corporation in violation of ~~the provisions of~~ this chapter is ~~hereby declared to be~~ unlawful.

Sec. 14. Section 495.5, Code 1993, is amended to read as follows:

495.5 VIOLATIONS — STOCK VOID.

Shares of capital stock of any corporation owned or controlled in violation ~~of the provisions~~ of this chapter shall be void and the holder ~~thereof~~ of such shares shall not be entitled to exercise the powers of a shareholder of ~~said~~ the corporation or permitted to participate in or be entitled to any of the benefits accruing to shareholders of ~~said~~ the corporation~~, and sections 494.12 to 494.14 are hereby made applicable to violations of the provisions of this chapter; and courts and juries shall construe this~~. This chapter shall be construed so as to prevent evasion and to accomplish the intents and purposes ~~thereof~~ of this chapter.

Sec. 15. Section 499.40, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The name and street address of the association's initial registered agent.

Sec. 16. Section 499.45, subsection 4, Code 1993, is amended by striking the subsection.

Sec. 17. Section 499.49, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Each association shall, before April 1 of each year, file a report with the secretary of state on forms prescribed by the secretary~~, to be accompanied by the annual fee required by section 499.45, subsection~~ 4. Such report shall be signed by an officer of the association, or a receiver or trustee liquidating its affairs, and shall state:

Sec. 18. Section 499.54, Code 1993, is amended to read as follows:

499.54 FOREIGN ASSOCIATIONS.

Any foreign corporation ~~now or hereafter~~ organized under generally similar laws of any other state shall be admitted to do business in Iowa upon compliance with the general laws relating to foreign corporations and payment of the same fees as would be required under section ~~494.4 were said~~ 490.122 if the foreign co-operative corporation is a foreign corporation for profit seeking authority to transact business in Iowa under chapter ~~494~~ 490. Upon the secretary of state being satisfied that ~~such~~ the foreign corporation is so organized and has so complied, the secretary shall issue ~~it~~ a certificate authorizing ~~it~~ the foreign corporation to do business in Iowa.

Such a foreign ~~associations~~ corporation thus admitted shall be entitled to all remedies provided in this chapter, and to enforce all contracts theretofore or thereafter made by ~~it~~ the foreign corporation which any association might make under this chapter.

If such a foreign corporation amends its articles it shall forthwith file a copy ~~thereof~~ of the amendment with the secretary of state, certified by the secretary or other proper official of the state under whose laws it is formed, and shall pay the fees prescribed for amendments by section ~~494.5~~ 490.122. Foreign corporations shall also file statements and pay fees otherwise prescribed by ~~said~~ section ~~494.5~~ 490.122.

Sec. 19. NEW SECTION. 499.72 REGISTERED OFFICE AND REGISTERED AGENT.

Each association must continuously maintain in this state both 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 resides in this state and whose business office is identical with the registered office.

b. A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office.

c. A foreign corporation or not-for-profit foreign corporation authorized to transact business in this state whose business office is identical with the registered office.

Sec. 20. NEW SECTION. 499.73 CHANGE OF REGISTERED OFFICE OR REGISTERED AGENT.

1. An association may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth all of the following:

a. The name of the association.

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 addresses of its registered office and the business office of its registered agent will be identical.

2. If a registered agent changes the street address of the registered agent's business office, the registered agent may change the street address of the registered office of any association for which the person is the registered agent by notifying the association in writing of the change and signing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection 1 and recites that the association has been notified of the change.

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 2 for each association, or a single statement for all associations 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 association named in the notice.

4. An association may also appoint or change its registered office or registered agent in its annual report.

Sec. 21. NEW SECTION. 499.74 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 or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued.

2. 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 association at its principal office.

3. 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. 22. NEW SECTION. 499.75 SERVICE ON ASSOCIATION.

1. An association's registered agent is the association's agent for service of process, notice, or demand required or permitted by law to be served on the association.

2. If an association has no registered agent, or the agent cannot with reasonable diligence be served, the association may be served by registered or certified mail, return receipt requested, addressed to the secretary of the association at its principal office. Service is perfected under this subsection at the earliest of any of the following:

a. The date the association receives the mail.

b. The date shown on the return receipt, if signed on behalf of the association.

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 an association.

Sec. 23. NEW SECTION. 499.76 GROUNDS FOR ADMINISTRATIVE DISSOLUTION.

The secretary of state may commence a proceeding under section 499.77 to administratively dissolve an association if any of the following apply:

1. The association does not pay within sixty days after they are due any franchise taxes or penalties imposed by this chapter or other law.

2. The association has not delivered an annual report to the secretary of state in a form that meets the requirements of section 499.49, within sixty days after it is due.

3. The association is without a registered agent or registered office in this state for sixty days or more.

4. The association does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

5. The association's period of duration stated in its articles of incorporation expires.

Sec. 24. NEW SECTION. 499.77 PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

1. If the secretary of state determines that one or more grounds exist under section 499.76 for dissolving an association, the secretary of state shall serve the association by ordinary mail with written notice of the secretary of state's determination pursuant to section 499.75.

2. If the association does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after service of the notice is perfected pursuant to section 499.75, the secretary of state shall administratively dissolve the association by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the association pursuant to section 499.75.

3. An association administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs and notify claimants.

4. The administrative dissolution of an association does not terminate the authority of its registered agent.

Sec. 25. NEW SECTION. 499.78 REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.

1. An association administratively dissolved under section 499.77 may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the association at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution either did not exist or have been eliminated.

2. If the secretary of state determines that the application contains the information required by subsection 1 and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the association pursuant to section 499.75.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

Sec. 26. NEW SECTION. 499.78A APPEAL FROM DENIAL OF REINSTATEMENT.

1. If the secretary of state denies an association's application for reinstatement following administrative dissolution, the secretary of state shall serve the association pursuant to section 499.75 with a written notice that explains the reason or reasons for denial.

2. The association may appeal the denial of reinstatement to the district court within thirty days after service of the notice of denial is perfected. The association appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the association's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved association or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

Sec. 27. Section 504A.87, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

504A.87 GROUNDS FOR ADMINISTRATIVE DISSOLUTION.

The secretary of state may commence a proceeding under section 504A.87A to administratively dissolve a corporation if any of the following apply:

1. The corporation does not pay within sixty days after they are due any franchise taxes or penalties imposed by this chapter or other law.

2. The corporation has not delivered an annual report to the secretary of state in a form that meets the requirements of section 504A.83, within sixty days after it is due.

3. The corporation is without a registered agent or registered office in this state for sixty days or more.

4. The corporation does not notify the secretary of state within sixty days that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.

5. The corporation's period of duration stated in its articles of incorporation expires.

Sec. 28. NEW SECTION. 504A.87A PROCEDURE FOR AND EFFECT OF ADMINISTRATIVE DISSOLUTION.

1. If the secretary of state determines that one or more grounds exist under section 504A.87 for dissolving a corporation the secretary of state shall serve the corporation by ordinary mail with written notice of the secretary of state's determination.

2. If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after the date of the notice, the secretary of state shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The secretary of state shall file the original of the certificate and serve a copy on the corporation.

3. A corporation administratively dissolved continues its existence but shall not carry on any business except that necessary to wind up and liquidate its business and affairs and notify claimants.

4. The administrative dissolution of a corporation does not terminate the authority of its registered agent.

Sec. 29. NEW SECTION. 504A.87B REINSTATEMENT FOLLOWING ADMINISTRATIVE DISSOLUTION.

1. A corporation administratively dissolved under section 504A.87A may apply to the secretary of state for reinstatement within two years after the effective date of dissolution. The application must meet all of the following requirements:

a. Recite the name of the corporation at its date of dissolution and the effective date of its administrative dissolution.

b. State that the ground or grounds for dissolution either did not exist or have been eliminated.

2. If the secretary of state determines that the application contains the information required by subsection 1 and that the information is correct, the secretary of state shall cancel the certificate of dissolution and prepare a certificate of reinstatement that recites the secretary of

state's determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation.

3. When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution as if the administrative dissolution had never occurred.

Sec. 30. NEW SECTION. 504A.87C APPEAL FROM DENIAL OF REINSTATEMENT.

1. If the secretary of state denies a corporation's application for reinstatement following administrative dissolution, the secretary of state shall serve the corporation with a written notice that explains the reason or reasons for denial.

2. The corporation may appeal the denial of reinstatement to the district court within thirty days after service of the notice of denial is perfected. The corporation appeals by petitioning the court to set aside the dissolution and attaching to the petition copies of the secretary of state's certificate of dissolution, the corporation's application for reinstatement, and the secretary of state's notice of denial.

3. The court may summarily order the secretary of state to reinstate the dissolved corporation or may take other action the court considers appropriate.

4. The court's final decision may be appealed as in other civil proceedings.

Sec. 31. Section 554.9402, subsection 4, Code 1993, is amended to read as follows:

4. Except as provided in this subsection, a financing statement may be amended by filing a writing signed by both the debtor and the secured party. However, an amendment is sufficient when it is signed only by the secured party if it is filed to show a change of the name of the secured party, the address of the secured party, or both. An amendment showing only a change of the name of the secured party, the address of the secured party, or both, shall be filed without fee. The secretary of state may adopt rules for the change of a secured party's name or address on multiple financing statements by use of a single amendment, including a reasonable fee for processing of the amendment. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

Sec. 32. Section 554.9403, subsection 5, paragraph a, Code 1993, is amended to read as follows:

a. Ten dollars for an original financing statement if the statement is in the standard form prescribed by the secretary of state, and otherwise twelve dollars. However, if the original financing statement is filed electronically in the office of the secretary of state, the fee shall be eight dollars if the statement is in the standard form prescribed by the secretary of state, and otherwise twelve dollars.

Sec. 33. Section 554.9405, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. The filing fee for an assignment filed electronically in the office of the secretary of state is eight dollars if the statement is in the standard form, and otherwise ten dollars.

Sec. 34. Section 554.9406, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The filing fee for a release of collateral filed electronically in the office of the secretary of state is eight dollars if the statement is in the standard form, and otherwise ten dollars.

Sec. 35. Sections 491.12, 491.30, 491.31, 499.51, and 499.52, Code 1993, are repealed.

Sec. 36. Chapter 494, Code 1993, is repealed.

Approved May 12, 1993

CHAPTER 127

SCHOOL ADMINISTRATION, ACCREDITATION, AND RELATED MATTERS

H.F. 457

AN ACT relating to school administration, accreditation, finance, transportation, and providing effective and applicability dates.

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

Section 1. Section 256.11, subsection 10, unnumbered paragraph 2, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

Phase I shall consist 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 in this section. The phase I monitoring requires that accredited schools and school districts annually complete accreditation compliance forms adopted by the state board and file them with the department of education. Phase I monitoring requires a comprehensive desk audit of all accredited schools and school districts including review of accreditation compliance forms, accreditation visit reports, methods of administration reports, and reports submitted in compliance with sections 280.12 and 280.18.

The department shall conduct site visits to schools and school districts to address accreditation issues identified in the desk audit. Such a visit may be conducted by an individual departmental consultant or may be a comprehensive site visit by a team of departmental consultants and other educational professionals. The purpose of a comprehensive site visit is to determine that a district is in compliance with minimum standards and to provide a general assessment of educational practices in a school or school district and make recommendations with regard to the visit findings for the purposes of improving educational practices above the level of minimum compliance. The department shall establish a long-term schedule of site visits that includes visits of all accredited schools and school districts at least once every five years.

Sec. 2. Section 256.11, subsection 12, Code 1993, is amended to read as follows:

12. During the period of time specified in the plan for its implementation by a school district or nonpublic school, the ~~school or~~ school district or school remains accredited. The accreditation committee shall revisit the school district or nonpublic school and shall determine whether the deficiencies in the standards have been corrected and shall make a report and recommendation to the director and the state board. The committee recommendation shall specify whether the school district or school shall remain accredited or under what conditions the district may remain accredited. The conditions may include, but are not limited to, providing temporary oversight authority, operational authority, or both oversight and operational authority to the director and the state board for some or all aspects of the school district operation, in order to bring the school district into compliance with minimum standards. The state board shall review the report and recommendation, may request additional information, and shall determine whether the deficiencies have been corrected. If the deficiencies have not been corrected, and the conditional accreditation alternatives contained in the report are not mutually acceptable to the local board and the state board, the state board shall merge the territory of the school district with one or more contiguous school districts at the end of the school year. Division of assets and liabilities of the school district shall be as provided in sections 275.29 through 275.31. Until the merger is completed, and subject to a decision by the state board of education, the school district shall pay tuition for its resident students to an accredited school district under section 282.24. However, in lieu of merger and payment of tuition by a nonaccredited school district, the state board may place a district under receivership for the remainder of the school year. The receivership shall be under the direct supervision and authority of the director. The decision of whether to merge the school district and require payment of tuition for the district's students or to place the district under receivership shall be based upon a determination by the state board of the best interests of the students, parents, residents of

the community, teachers, administrators, and board members of the district and the recommendations of the accreditation committee and the director. If the state board declares a nonpublic school to be nonaccredited, the removal of accreditation shall take effect on the date established by the resolution of the state board, which shall be no later than the end of the school year in which the nonpublic school is declared to be nonaccredited.

Sec. 3. Section 280.4, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

280.4 LIMITED ENGLISH PROFICIENCY — WEIGHTING.

1. The medium of instruction in all secular subjects taught in both public and nonpublic schools shall be the English language, except when the use of a foreign language is deemed appropriate in the teaching of any subject or when the student is limited English proficient. When the student is limited English proficient, both public and nonpublic schools shall provide special instruction, which shall include but need not be limited to either instruction in English as a second language or transitional bilingual instruction until the student is fully English proficient or demonstrates a functional ability to speak, read, write, and understand the English language. As used in this section, "limited English proficient" means a student's language background is in a language other than English, and the student's proficiency in English is such that the probability of the student's academic success in an English-only classroom is below that of an academically successful peer with an English language background. "Fully English proficient" means a student who is able to read, understand, write, and speak the English language and to use English to ask questions, to understand teachers and reading materials, to test ideas, and to challenge what is being asked in the classroom.

2. The department of education shall adopt rules relating to the identification of limited English proficient students who require special instruction under this section and to application procedures for funds available under this section.

3. In order to provide funds for the excess costs of instruction of limited English proficient students above the costs of instruction of pupils in a regular curriculum, students identified as limited English proficient shall be assigned an additional weighting that shall be included in the weighted enrollment of the school district of residence for a period not exceeding three years. However, the school budget review committee may grant supplemental aid or modified allowable growth to a school district to continue funding a program for students after the expiration of the three-year period. The school budget review committee shall calculate the additional amount for the weighting to the nearest one-hundredth of one percent so that to the extent possible the moneys generated by the weighting will be equivalent to the moneys generated by the two-tenths weighting provided prior to July 2, 1991.

Sec. 4. Section 285.1, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Children attending prekindergarten programs offered or sponsored by the district may be provided transportation services.

Sec. 5. Section 285.10, subsection 7, paragraph b, Code 1993, is amended to read as follows:

b. May purchase buses and enter into contract to pay for such buses over a five-year period as follows: One-fourth of the cost when the bus is delivered and the balance in equal annual installments, plus simple interest due. The interest rate shall be the lowest rate available and shall not exceed the rate in effect under section 74A.2. The bus shall serve as security for balance due. ~~Bus bodies and chassis shall be purchased on separate contracts~~ Competitive bids on comparable equipment shall be requested on all school bus body and chassis purchases and shall be based upon minimum construction standards established by the department of education. Separate body and chassis bids shall be requested unless the bus is constructed as an integral unit, inseparable as to body and chassis, by the manufacturer or is a used or demonstrator bus.

Sec. 6. Section 291.2, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

291.2 BONDS OF SECRETARY AND TREASURER.

The secretary and treasurer, within ten days after appointment and before entering upon the duties of the office, shall execute to the school corporation a surety bond in an amount sufficient to cover current operations as determined by the board. All such bonds shall be continued to the faithful discharge of the duties of the office. The amount and sufficiency of all surety bonds shall be determined and approved by the board and shall be filed with the president. The cost of the surety bond shall be paid by the school corporation. If a single person serves as secretary and treasurer, pursuant to section 279.3 or 260C.12, only one bond is necessary for that person. The secretary and treasurer may give bond under a single bond covering other employees of the district.

Sec. 7. Section 291.7, Code 1993, is amended to read as follows:

291.7 MONTHLY RECEIPTS, DISBURSEMENTS, AND BALANCES.

The secretary of each district shall file monthly~~, on or before the tenth day of each month,~~ with the board of directors, a complete statement of all receipts and disbursements from the various funds during the preceding month, and also the balance remaining on hand in the various funds at the close of the period covered by ~~said~~ the statement, which monthly statements shall be open to public inspection.

Sec. 8. Section 321.375, subsection 2, paragraph d, Code 1993, is amended to read as follows:

d. The commission of or conviction for a public offense as defined by the Iowa criminal code, if the offense is relevant to and affects driving ability, or if the offense includes sexual involvement with a minor student with the intent to commit acts and practices proscribed under sections 709.2 through 709.4, section 709.8, and sections 725.1 through 725.3, or is a violation of the rules of the department of education adopted to implement section 280.17.

Sec. 9. Section 321.376, subsection 1, Code 1993, 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 driver of a school bus shall hold a driver's license issued by the department of transportation valid for the operation of the school bus and shall hold a school bus driver's permit issued by the department of education when transporting student or adult passengers to or from school activities. 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. 10. REPEAL. 1992 Iowa Acts, chapter 1159, section 6, is repealed.

Sec. 11. EFFECTIVE DATE. Section 10 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 1993

CHAPTER 128

STUDY OF CRITICAL INFRASTRUCTURE NEEDS

H.F. 622

AN ACT creating an Iowa advisory study committee on critical infrastructure needs.

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

Section 1. INTENT. It is the intent of the general assembly to consider alternative ways in which state government can optimize its resources and organize itself for the finance, administration, and management of public works and infrastructure functions for the citizens of Iowa.

Sec. 2. FINDINGS AND OBJECTIVES. The general assembly finds the following:

1. The state of Iowa has made and will continue to make substantial progress towards retiring the state deficit.

2. That once the deficit is retired, substantial resources will be available to dedicate towards existing needs.

3. A growing need exists to address the state's critical infrastructure needs, both at the state and local levels.

4. A substantial likelihood exists that a major national jobs creation and public works program will be enacted by the United States congress, and Iowa should be prepared to take full advantage of that potential.

5. A need exists for better coordination of Iowa's infrastructure planning, building, and rehabilitation.

6. The state of Iowa needs to evaluate what role, if any, state government should play in the formulation of a public works program.

7. A need exists for an intergovernmental body to study and report on the most efficient and prudent method by which to meet these critical infrastructure needs and to utilize any national jobs creation and public works program moneys.

Sec. 3. CRITICAL INFRASTRUCTURE STUDY COMMITTEE CREATED – MEMBERSHIP.

1. The legislative council is requested to establish an Iowa advisory study committee on critical infrastructure needs for the 1993 and 1994 legislative interim periods.

2. The committee shall examine and make recommendations concerning Iowa's infrastructure including, but not limited to, a review and analysis of previous studies conducted by public or private entities of state and local infrastructure needs; a preliminary inventory of current facilities, financial resources, and construction, rehabilitation, and maintenance programs; a plan for an efficient distribution of functional responsibilities; a model organizational framework to develop, administer and implement infrastructure policies and programs; and a comprehensive financial plan to achieve statewide long-term objectives.

3. The membership of the committee shall be as follows:

a. One county official, appointed by the Iowa state association of counties.

b. One city official, appointed by the league of Iowa municipalities.

c. One school corporation officer appointed by the Iowa association of school boards.

d. Four members of the general assembly, two state senators one of whom shall be appointed by the majority leader of the senate, and one appointed by the minority leader of the senate, and two state representatives one of whom shall be appointed by the speaker of the house, and one appointed by the minority leader of the house.

e. The director or the director's designee of the department of management and of the state department of transportation.

f. Four citizen members appointed by the legislative council.

4. In making all appointments, consideration shall be given to gender, race, or ethnic representation, population and demographic factors, and representation of different geographic regions. All appointments shall comply with sections 69.16 and 69.16A.

5. The co-chairpersons of the committee shall be a senate and a house committee member designated by the legislative council.

Sec. 4. EXPENSES. The members of the committee are entitled to reimbursement for travel and other necessary expenses incurred in the performance of official duties. Each member may also be eligible to receive compensation as provided in section 7E.6. The expenses shall be paid from funds appropriated pursuant to section 2.12.

Sec. 5. REPORT. The committee shall submit an interim report to the general assembly and the governor by December 20, 1993, and a final report by December 20, 1994.

Approved May 12, 1993

CHAPTER 129

CAMPAIGN FINANCE — CERTAIN SPECIAL ELECTIONS

H.F. 635

AN ACT relating to the solicitation and giving of contributions to certain candidates for state office for which a special election is held during the regular legislative session.

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

Section 1. Section 56.15A, Code 1993, is amended to read as follows:

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 monetary or in-kind contributions to the campaign ~~funds~~ of an elected state official, member of the general assembly, or candidate for ~~public~~ state 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.

This section shall not apply to a candidate for state office who filed nomination papers for an office for which a special election is called or held during the regular legislative session, if the candidate receives the contribution at any time during the period commencing on the date on which at least two candidates have been nominated for the office and ending on the date on which the election is held. A person who is an elected state official shall not, however, solicit contributions during a legislative session from any lobbyist or political committee, other than a state statutory political committee, county statutory political committee, or a national political party, for another candidate for a state office for which a special election is held.

Approved May 12, 1993

CHAPTER 130

COMMERCIAL APPLICATORS OF PESTICIDES

H.F. 641

AN ACT relating to the department of agriculture and land stewardship, by providing for the assessment and collection of civil penalties against commercial applicators of pesticides.

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

Section 1. Section 206.19, subsection 5, Code 1993, is amended to read as follows:

5. Establish, assess, and collect civil penalties for violations by commercial applicators. In determining the amount of the civil penalty, the department shall consider all of the following factors:

a. The willfulness of the violation.

b. The actual or potential danger of injury to the public health or safety, or damage to the environment caused by the violation.

c. The actual or potential cost of the injury or damage caused by the violation to the public health or safety, or to the environment.

d. The actual or potential cost incurred by the department in enforcing this chapter and rules adopted pursuant to this chapter against the violator.

e. The remedial action required of the violator.

f. The violator's previous history of complying with orders or decisions of the department.

The amount of the civil penalty shall not exceed five hundred dollars for each offense.

Sec. 2. NEW SECTION. 206.23A COMMERCIAL PESTICIDE APPLICATOR PEER REVIEW PANEL.

1. The department shall establish a commercial pesticide applicator peer review panel to assist the department in assessing or collecting a civil penalty pursuant to section 206.19. The secretary shall appoint the following members:

a. A person actively engaged in the business of applying pesticides by use of an aircraft and who is licensed as an aerial commercial applicator in this state pursuant to section 206.6.

b. A person actively engaged in the business of applying pesticides in urban areas on lawns and gardens, and who is licensed as a commercial applicator pursuant to section 206.6.

c. A person actively engaged in the business of applying pesticides within structures used for residential or commercial purposes, and who is licensed as a commercial applicator pursuant to section 206.6.

d. A person actively engaged in the business of applying pesticides on agricultural land used for farming and who is licensed as a commercial applicator pursuant to section 206.6.

e. A person certified as a public applicator pursuant to section 206.5.

2. a. The members appointed pursuant to this section shall serve four-year terms beginning and ending as provided in section 69.19. However, the secretary shall appoint initial members to serve for less than four years to ensure that members serve staggered terms. A member is eligible for reappointment. A vacancy on the panel shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

b. The panel shall elect a chairperson who shall serve for a term of one year. The panel shall meet on a regular basis and at the call of the chairperson or upon the written request to the chairperson of two or more members. Three voting members constitute a quorum and the affirmative vote of a majority of the members present is necessary for any substantive action to be taken by the panel. The majority shall not include any member who has a conflict of interest and a statement by a member that the member has a conflict of interest is conclusive for this purpose. A vacancy in the membership does not impair the duties of the panel.

c. Notwithstanding section 7E.6, the members shall only receive reimbursement for actual expenses for performance of their official duties, as provided by the department.

d. The panel shall be staffed by the department.

3. The panel shall make recommendations to the department regarding the establishment of civil penalties and procedures to assess and collect penalties, as provided in section 206.19. The panel may propose a schedule of penalties for minor and serious violations. The department may adopt rules based on the recommendations of the panel as approved by the secretary.

4. The panel shall review cases of persons required to be licensed as commercial applicators who are subject to civil penalties as provided in section 206.19 according to rules adopted by the department. A review shall be performed upon request by the secretary or the person subject to the civil penalty. The panel may establish procedures for the review and establish a system of prioritizing cases for review, consistent with rules adopted by the department. The rules may exclude review of minor violations. The review may also include the manner of assessing and collecting the civil penalty. The findings and recommendations of the panel shall be included in a response delivered to the department and the person subject to the penalty. The response may include a recommendation that a proposed civil penalty be modified or suspended, that an alternative method of collection be instituted, or that conditions be placed upon the license of a commercial applicator.

5. The department shall adopt rules establishing a period for the review and response by the panel which must be completed prior to a contested case hearing under chapter 17A. A hearing shall not be delayed after the required period for review and response, except as provided in chapter 17A.

6. This section does not apply to a license revocation proceeding. This section does not require the department to delay the prosecution of a case if immediate action is necessary to reduce the risk of harm to the environment or public health or safety. This section also does not require a review or response if the department refers a violation of this chapter for criminal prosecution, or for an action involving a stop order issued pursuant to section 206.16. The department shall consider any available response by the panel, but is not required to change findings of an investigation, a penalty sought to be assessed, or a manner of collection.

7. An available response by the panel may be used as evidence in an administrative hearing, or a civil or criminal case, except to the extent that information is considered confidential pursuant to section 22.7.

Approved May 12, 1993

CHAPTER 131

STATE FINANCES — DEPOSIT AND USE OF DESIGNATED MONEYS

H.F. 669

AN ACT requiring that certain moneys shall be credited to and deposited in the general fund of the state and shall be used for the purposes for which the moneys were collected and providing an effective date.

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

Section 1. NEW SECTION. 8.60 USE OF DESIGNATED MONEYS.

Moneys credited to or deposited in the general fund of the state on or after July 1, 1993, which under law were previously collected to be used for specific purposes, or to be credited to, or be deposited to a particular account or fund shall only be used for the purposes for which the moneys were collected, including but not limited to moneys collected in accordance with any of the following provisions:

1. Pari-mutuel regulation fund created in section 99D.17.

2. Gamblers assistance fund pursuant to section 99E.10, subsection 1.
3. Excursion boat gambling special account pursuant to section 99F.4, subsection 2.
4. Milk fund created in section 192.111.
5. Dairy trade practices trust fund pursuant to section 192A.30.
6. Commercial feed fund created in section 198.9.
7. Fertilizer fund created in section 200.9.
8. Pesticide fund created in section 206.12.
9. Motor vehicle fraud account pursuant to section 312.2, subsection 13.
10. Public transit assistance fund pursuant to section 312.2, subsection 15, and section 324A.6.
11. Salvage vehicle fee paid to the Iowa law enforcement academy pursuant to section 321.52.
12. Railroad assistance fund created in section 327H.18.
13. Special railroad facility fund created in section 327I.23.
14. State aviation fund created in section 328.36.
15. Marine fuel tax fund created in section 452A.79.
16. Public outdoor recreation and resources fund pursuant to section 461A.79.
17. Energy research and development account created in section 473.11, enacted in 1993 Iowa Acts, Senate File 74.*
18. Utilities trust fund created in section 476.10.
19. Banking revolving fund created in section 524.207.
20. Credit union revolving fund created in section 533.67.
21. Professional licensing revolving fund created in section 546.10.
22. Administrative services trust fund created in section 546.11.

Sec. 2. Section 99D.17, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section directing that funds received be deposited into the pari-mutuel regulation fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all funds received shall be deposited into the general fund of the state.

Sec. 3. Section 99E.10, subsection 1, paragraph a, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this lettered paragraph, directing that a portion of gross lottery revenues be deposited into the gamblers assistance fund or the provisions of section 99F.11 directing that a portion of the adjusted gross receipts under chapter 99F be deposited into the gamblers assistance fund, ~~for the fiscal period~~ beginning July 1, 1991, ~~and ending June 30, 1993,~~ moneys that were to be deposited into the gamblers assistance fund pursuant to this lettered paragraph and section 99F.11, subsection 3, shall be deposited into the general fund of the state.

Sec. 4. Section 99F.4, subsection 2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection and sections 99F.10 and 99F.17 directing that all license and admission fees be paid to the commission or be deposited into a special account, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all fees shall be deposited into the general fund of the state.

Sec. 5. Section 192.111, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. Notwithstanding the provisions of paragraph "a", and sections 192.133, 194.14, 194.19, 194.20, and 195.9 directing that fees collected and appropriations made for dairy control be deposited into the milk fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all fees collected under those sections shall be deposited into the general fund of the state. All moneys deposited in the general fund under this section shall be appropriated for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapters 194 and 195. Such appropriations shall not be deposited into the milk fund.

*Chapter 11 herein

Sec. 6. Section 192A.30, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section, fees paid to the secretary shall not be deposited into the dairy trade practices trust fund ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ but shall be deposited into the general fund of the state.

Sec. 7. Section 198.9, subsection 3, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that fees collected be deposited into the commercial feed fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all fees collected shall be deposited into the general fund of the state.

Sec. 8. Section 200.9, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and section 201.13 directing that those fees collected under sections 200.4 and 200.8 and moneys received under chapter 201 be deposited into the fertilizer fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all such fees and moneys shall be deposited into the general fund of the state. Moneys received under chapter 201 and deposited into the general fund of the state as a result of this paragraph are appropriated for purposes of section 201.13.

Sec. 9. Section 206.12, subsection 3, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that fifty dollars of each fee collected be deposited into the pesticide fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ fifty dollars of each fee collected shall be deposited into the general fund of the state.

Sec. 10. Section 312.2, subsection 13, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that twenty-five cents on each title issuance be annually credited to the department of justice for deposit into the motor vehicle fraud account, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ the twenty-five cents on each title issuance shall be deposited into the general fund of the state.

Sec. 11. Section 312.2, subsection 15, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection directing that one-twentieth of eighty percent of the revenue derived from the operation of 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 324A.

Sec. 12. Section 321.52, subsection 4, paragraph c, unnumbered paragraph 3, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this lettered paragraph directing that five dollars of each fee be paid to the Iowa law enforcement academy, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ such five dollars shall be deposited into the general fund of the state.

Sec. 13. Section 324A.6, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and section 312.2, subsection 15, directing that moneys be deposited into the public transit assistance fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all such moneys under these sections shall be deposited into the general fund of the state. There is appropriated ~~during this fiscal period~~

from moneys received by the department by agreements, grants, gifts, or other means and deposited into the state general fund as a result of this paragraph to the department for purposes of this subsection. Moneys appropriated from the general fund under this paragraph and section 312.2, subsection 15, shall not be deposited into the public transit assistance fund.

Sec. 14. Section 327H.18, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and sections 327I.7, subsection 14, and 327H.20 directing that moneys received or reimbursements made be deposited into the railroad assistance fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ such moneys shall be deposited into the general fund of the state and ~~for that period~~ all moneys received by the department by agreements, grants, gifts, or other means which were deposited into the state general fund as a result of this paragraph are appropriated for state railroad assistance under this chapter. Such appropriations shall not be deposited into the railroad assistance fund.

Sec. 15. Section 327I.23, subsection 3, Code 1993, is amended to read as follows:

3. Notwithstanding the provisions of section 327I.7, subsection 14, and section 327I.26 and other provisions of law directing that moneys be deposited into the special railroad facility fund and directing that moneys in the fund be appropriated for purposes of the authority, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all moneys directed to be deposited in the fund shall be deposited into the general fund of the state and ~~during that period~~ all moneys received under subsection 2 are appropriated to the authority for purposes of subsection 2 and other moneys appropriated to the authority may be used for purposes of this section.

Sec. 16. Section 328.36, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and sections 452A.82 and 328.21, directing that moneys remaining after the cost of administering the aviation fuel tax fund and money received by the department be deposited into the state aviation fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ such moneys shall be deposited into the general fund of the state and refunds under section 328.24 ~~during that period~~ shall be paid from the ~~state~~ general fund of the state.

Sec. 17. Section 452A.79, unnumbered paragraph 3, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and section 452A.84 directing that certain moneys be transferred or deposited into the marine fuel tax fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ such moneys shall be deposited into the general fund of the state.

Sec. 18. Section 461A.79, subsection 4, Code 1993, 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,~~ 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. 19. Section 473.11, subsection 1, paragraph f, unnumbered paragraph 2, as enacted by the 1993 Iowa Acts, Senate File 74,* section 1, is amended to read as follows:

Notwithstanding the provisions of this paragraph 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.

Sec. 20. Section 476.10, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Whenever the board shall deem it necessary in order to carry out the duties imposed upon it in connection with rate regulation under section 476.6, investigations under section 476.3, or review proceedings under section 476.31, the board may employ additional temporary or

*Chapter 11 herein

permanent staff, or may contract with persons who are not state employees for engineering, accounting, or other professional services, or both. The costs of these additional employees and contract services shall be paid by the public utility whose rates are being reviewed in the same manner as other expenses are paid under this section. ~~For the fiscal period beginning~~ Beginning on July 1, 1991, ~~and ending June 30, 1993,~~ there is appropriated out of any funds in the state treasury not otherwise appropriated, such sums as may be necessary to enable the board to hire additional staff and contract for services under this section. The board shall increase quarterly assessments specified in unnumbered paragraph 2, by amounts necessary to enable the board to hire additional staff and contract for services under this section. The authority to hire additional temporary or permanent staff that is granted to the board by this section shall not be subject to limitation by any administrative or executive order or decision that restricts the number of state employees or the filling of employee vacancies, and shall not be subject to limitation by any law of this state that restricts the number of state employees or the filling of employee vacancies unless that law is made applicable to this section by express reference to this section. Before the board expends or encumbers an amount in excess of the funds budgeted for rate regulation and before the board increases quarterly assessments pursuant to this paragraph, the director of the department of management shall approve the expenditure or encumbrance. Before approval is given, the director of the department of management shall determine that the expenses exceed the funds budgeted by the general assembly to the board for rate regulation and that the board does not have other funds from which the expenses can be paid. Upon approval of the director of the department of management the board may expend and encumber funds for the excess expenses, and increase quarterly assessments to raise the additional funds. The board and the office of consumer advocate may add additional personnel or contract for additional assistance to review and evaluate energy efficiency plans and the implementation of energy efficiency programs including, but not limited to, professionally trained engineers, accountants, attorneys, skilled examiners and inspectors, and secretaries and clerks. The board and the office of the consumer advocate may expend additional sums beyond those sums appropriated. However, the authority to add additional personnel or contract for additional assistance must first be approved by the department of management. The additional sums shall be provided to the board and the office of the consumer advocate by the utilities subject to the energy efficiency requirements in this chapter. The assessments shall be in addition to and separate from the quarterly assessment.

Sec. 21. Section 476.10, unnumbered paragraph 8, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section and sections 478.4, 479.16, and 479A.9 directing that fees paid to the utilities division or other moneys be deposited into the utilities trust fund and not be transferred to the general fund of the state, and directing that expenses be paid from the utilities trust fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all such fees and other moneys collected under those sections shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

Sec. 22. Section 524.207, unnumbered paragraph 6, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section directing that fees and other moneys received be deposited into the banking revolving fund and not be transferred to the general fund of the state, and directing that expenses be paid from the banking revolving fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all fees and moneys collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

Sec. 23. Section 533.67, unnumbered paragraph 6, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this section directing that fees and other moneys received be deposited into the credit union revolving fund and not be transferred to the general fund of the state, and directing that expenses be paid from the credit union revolving fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all fees and other moneys

collected shall be deposited into the general fund of the state and expenses required to be paid under this section shall be paid from funds appropriated for those purposes.

Sec. 24. Section 546.10, subsection 6, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding the provisions of this subsection and sections 542B.12, 542C.3, 543B.14, 543D.6, 544A.11, and 544B.14 directing that fees and other moneys be deposited into the professional licensing revolving fund and not to be transferred to the general fund of the state, and directing that expenses be paid from the professional licensing revolving fund, ~~for the fiscal period~~ beginning on July 1, 1991, ~~and ending June 30, 1993,~~ all fees collected under those sections shall be deposited into the general fund of the state and expenses required to be paid under this subsection shall be paid from funds appropriated for those purposes.

Sec. 25. Section 546.11, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Notwithstanding this section and sections 476.10, 524.207, 533.67, 546.9, and 546.10 directing the utilities division, banking division, credit union division, alcoholic beverages division, and 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. 26. Section 556.18, subsection 1, Code 1993, is amended to read as follows:

1. ~~Except as provided in subsection 3, all~~ All funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall be deposited monthly by the treasurer of state in the general fund of the state. However, the treasurer of state shall retain in a separate trust fund an amount not exceeding two hundred thousand dollars from which the treasurer of state shall make prompt payment of claims duly allowed under section 556.20. Before making the deposit, the treasurer of state shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property and of the name and last known address of each insured person or annuitant, and with respect to each policy or contract listed in the report of a life insurance corporation, its number, the name of the corporation, and the amount due. The record shall be available for public inspection at all reasonable business hours.

Sec. 27. Section 556.18, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 28. 1991 Iowa Acts, chapter 264, section 905, is amended to read as follows:

SEC. 905.

1. Notwithstanding the restrictions relating to the transfer and use of moneys in the utilities trust fund in section 476.10, the insurance revolving fund in section 505.7, the banking revolving fund in section 524.207, the credit union revolving fund in section 533.67, and the professional licensing revolving fund in section 546.10, the cash balances in those five funds resulting from covered charges to regulated industries for purposes of cash flow and the build-up of surplus balances remaining on June 30, 1991, shall be transferred to the general fund of the state. However, state general fund cash balances shall be available from the general fund of the state to the utilities division, insurance division, banking division, credit union division, and the professional licensing and regulation division for cash flow purposes to enable the timely payment of expenses without regard to seasonal cash flow ~~for the fiscal years ending June 30, 1992, and June 30, 1993. Upon completion of the fiscal year ending June 30, 1993, any amount transferred to the general fund of the state from each of those five funds shall be returned to the fund from which the amount was transferred.~~

2. Notwithstanding the restrictions relating to the use of the moneys in the fertilizer fund in section 200.9, and the pesticide fund in section 206.12, subsection 3, cash balances remaining on June 30, 1991, that are not needed to pay expenses of the fiscal year ending June 30, 1991,

are transferred to the general fund of the state. However, state general fund cash balances shall be available from the general fund of the state to the department of agriculture and land stewardship for cash flow purposes to enable the timely payment of expenses incurred for purposes for which moneys in the fertilizer and pesticide funds are to be used ~~for the fiscal years ending June 30, 1992, and June 30, 1993. Upon completion of the fiscal year ending June 30, 1993, any amount transferred to the general fund of the state from each of those two funds shall be returned to the fund from which the amount was transferred.~~

Sec. 29. 1991 Iowa Acts, chapter 268, section 508, subsection 3, unnumbered paragraph 2 and lettered paragraphs a, b, c, and d, are amended by striking the unnumbered paragraph and the lettered paragraphs.

Sec. 30. CODE EDITOR. The Code editor shall submit to the general assembly through the Code editor's bills coordinating amendments to sections of the Code which make reference to those funds and accounts which as a result of the enactment of this Act will no longer have moneys credited to or deposited into them but instead the moneys will be credited to or deposited into the general fund of the state.

Sec. 31. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 1993

CHAPTER 132

MILK AND MILK PRODUCTS

H.F. 675

AN ACT relating to the regulation of milk and milk products.

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

Section 1. Section 192.110, Code 1993, is amended to read as follows:

192.110 RATING REQUIRED TO RECEIVE OR RETAIN A PERMIT.

A person shall not receive or retain a permit under section 192.107, unless both of the following conditions are satisfied:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in the federal public health service publications, "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers 1989" and "Method of Making Sanitation Ratings of Milk Supplies, 1987 Revision", ~~is necessary to receive or retain a permit under section 192.107~~. The applicable provisions of these publications are incorporated into this section by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

2. The facilities and equipment used to produce, store, or transport milk or milk products comply with requirements of the "Grade 'A' Pasteurized Milk Ordinance, 1989 Revision" as provided in section 192.102.

Approved May 12, 1993

CHAPTER 133

SCHWENGEL BRIDGE
S.F. 409

AN ACT naming an I-80 bridge "Schwengel Bridge".

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

Section 1. NEW SECTION. 314.26 SCHWENGEL BRIDGE.
The interstate 80 bridge crossing the Mississippi river between the states of Iowa and Illinois shall be known as the "Schwengel Bridge" in honor of Fred Schwengel, who served for five terms as a member of the general assembly of the state of Iowa and was elected to the congress of the United States in 1954, 1956, 1958, 1960, 1962, 1966, 1968, and 1970.

Approved May 14, 1993

CHAPTER 134

DOGS AND CATS TRANSFERRED BY POUNDS AND ANIMAL SHELTERS
H.F. 136

AN ACT relating to the care of dogs and cats transferred by animal care facilities, authorizing fees and providing penalties.

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

Section 1. NEW SECTION. 162.20 STERILIZATION.
1. A pound or animal shelter shall not transfer ownership of a dog or cat by sale or adoption, unless the dog or cat is subject to sterilization. The sterilization shall involve a procedure which permanently destroys the capacity of a dog or cat to reproduce, either by the surgical removal or alteration of its reproductive organs, or by the injection or ingestion of a serum. The pound or animal shelter shall not relinquish custody until it provides for one of the following:
a. Sterilization performed by a veterinarian licensed pursuant to chapter 169.
b. The execution of an agreement with a person intended to be the permanent custodian of the dog or cat. The agreement must provide that the custodian shall have the dog or cat sterilized by a veterinarian licensed pursuant to chapter 169.
2. The pound or animal shelter maintaining custody of the dog or cat may require that a person being transferred ownership of the dog or cat reimburse the pound or animal shelter for the amount in expenses incurred by the pound or animal shelter in sterilizing the dog or cat, if the dog or cat is sterilized prior to the transfer of ownership of the dog or cat to the person.
3. a. The sterilization agreement may be on a form which shall be prescribed by the department. The agreement shall contain the signature and address of the person receiving custody of the dog or cat, and the signature of the representative of the pound or animal shelter.
b. The sterilization shall be completed as soon as practicable, but prior to the transfer of the ownership of the dog or cat by the pound or animal shelter. The pound or animal shelter may grant an extension of the period required for the completion of the sterilization if the extension is based on a reasonable determination by a licensed veterinarian.
c. A pound or animal shelter shall transfer ownership of a dog or cat, conditioned upon the confirmation that the sterilization has been completed by a licensed veterinarian who performed the procedure. The confirmation shall be a receipt furnished by the office of the attending veterinarian.

d. A person who fails to satisfy the terms of the sterilization agreement shall return the dog or cat within twenty-four hours following receipt of a demand letter which shall be delivered to the person by the pound or animal shelter personally or by certified mail.

4. a. A person who does not comply with the provisions of a sterilization agreement is guilty of a simple misdemeanor.

b. A person who fails to return a dog or cat upon receipt of a demand letter is guilty of a simple misdemeanor.

c. A pound or animal shelter which knowingly fails to provide for the sterilization of a dog or cat is subject to a civil penalty of up to two hundred dollars. The department may enforce and collect civil penalties according to rules which shall be adopted by the department. Each violation shall constitute a separate offense. Moneys collected from civil penalties shall be deposited into the general fund of the state and are appropriated on July 1 of each year in equal amounts to each track licensed to race dogs to support the racing dog adoption program as provided in section 99D.27. Upon the third offense, the department may suspend or revoke a certificate of registration issued to the pound or animal shelter pursuant to this chapter. The department may bring an action in district court to enjoin a pound or animal shelter from transferring animals in violation of this section. In bringing the action, the department 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 loss will result if the action is brought at law or that unique or special circumstances exist.

5. This section shall not apply to the following:

a. The return of a dog or cat to its owner by a pound or animal shelter.

b. The transfer of a dog or cat by a pound or animal shelter which has obtained an enforcement waiver issued by the department. The pound or shelter may apply for an annual waiver each year as provided by rules adopted by the department. The department shall grant a waiver, if it determines that the pound or animal shelter is subject to an ordinance by a city or county which includes stricter requirements than provided in this section. The department shall not charge more than ten dollars as a waiver application fee. The fees collected by the department shall be deposited in the general fund of the state.

c. The transfer of a dog or cat to an institution as defined in section 145B.1, a research facility as defined in section 162.2, or a person licensed by the United States department of agriculture as a class B dealer pursuant to 9 C.F.R. subchapter A, part 2. However, a class B dealer who receives an unsterilized dog or cat from a pound or animal shelter shall either sterilize the dog or cat or transfer the unsterilized dog or cat to an institution or research facility provided in this paragraph. The class B dealer shall not transfer a dog to an institution or research facility, if the dog is a greyhound registered with the national greyhound association and the dog raced at a track associated with pari-mutuel racing, unless the class B dealer receives written approval of the transfer from a person who owned an interest in the dog while the dog was racing.

Approved May 14, 1993

CHAPTER 135

SALES, SERVICES, AND USE TAXES — EXEMPTIONS — TAX ON CERTAIN ENTRY FEES

S.F. 410

AN ACT relating to the sales tax on certain entry fees and the sales, services, and use tax exemption for sales of educational, religious, or charitable activities.

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

Section 1. Section 422.43, subsection 1, Code 1993, is amended to read as follows:

1. There is imposed a tax of five percent upon the gross receipts from all sales of tangible personal property, consisting of goods, wares, or merchandise, except as otherwise provided in this division, sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from the sales, furnishing, or service of gas, electricity, water, heat, pay television service, and communication service, including the gross receipts from such sales by any municipal corporation or joint water utility furnishing gas, electricity, water, heat, pay television service, and communication service to the public in its proprietary capacity, except as otherwise provided in this division, when sold at retail in the state to consumers or users; a like rate of tax upon the gross receipts from all sales of tickets or admissions to places of amusement, fairs, and athletic events except those of elementary and secondary educational institutions; a like rate of tax on the gross receipts from an entry fee or like charge imposed solely for the privilege of participating in an activity at a place of amusement, fair, or athletic event unless the gross receipts from the sales of tickets or admissions charges for observing the same activity are taxable under this division; and a like rate of tax upon that part of private club membership fees or charges paid for the privilege of participating in any athletic sports provided club members.

Sec. 2. Section 422.45, subsection 3, Code 1993, is amended to read as follows:

3. The gross receipts from sales of educational, religious, or charitable activities, where the entire proceeds ~~therefrom~~ from the sales are expended for educational, religious, or charitable purposes, except the gross receipts from games of skill, games of chance, raffles and bingo games as defined in chapter 99B. This exemption is disallowed on the amount of the gross receipts only to the extent the gross receipts are not expended for educational, religious, or charitable purposes.

Approved May 19, 1993

CHAPTER 136

LOESS HILLS DEVELOPMENT AND CONSERVATION AUTHORITY

H.F. 214

AN ACT establishing a loess hills development and conservation authority, specify its membership, powers, and duties, and providing for other properly related matters.

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

Section 1. NEW SECTION. 161D.1 LOESS HILLS DEVELOPMENT AND CONSERVATION AUTHORITY CREATED — MEMBERSHIP AND DUTIES.

1. A loess hills development and conservation authority is created. The counties of Lyon, Sioux, Plymouth, Cherokee, Woodbury, Ida, Sac, Monona, Crawford, Carroll, Harrison, Shelby, Audubon, Pottawattamie, Cass, Adair, Mills, Montgomery, Adams, Fremont, Page, and

Taylor are entitled to one voting member each on the authority, but membership or participation in projects of the authority is not required. Each member of the authority shall be appointed by the respective board of supervisors for a term to be determined by each board of supervisors, but the term shall not be for less than one year. An appointee shall serve without compensation, but an appointee may be reimbursed for actual expenses incurred while performing the duties of the authority as determined by each board of supervisors. The authority shall meet, organize, and adopt rules of procedures as deemed necessary to carry out its duties. The authority may appoint working committees that include other individuals in addition to voting members.

2. The mission of the authority is to develop and coordinate plans for projects related to the unique natural resource, rural development, and infrastructure problems of counties in the deep loess region of western Iowa. The erosion and degradation of stream channels in the deep loess soils has occurred due to historic channelization of the Missouri river and straightening stream channels of its tributaries. This erosion of land has damaged the rural infrastructure of this area, destroyed public roads and bridges, adversely impacted stream water quality and riparian habitat, and affected other public and private improvements. Stabilization of stream channels is necessary to protect the rural infrastructure in the deep loess soils area of the state. The authority shall cooperate with the division of soil conservation of the department of agriculture and land stewardship, the affected soil and water conservation districts, the department of natural resources, and the Iowa department of transportation in carrying out its mission and duties. The authority shall also cooperate with appropriate federal agencies, including the United States environmental protection agency, the United States department of interior, and the soil conservation service of the United States department of agriculture. The authority shall make use of technical resources available through member counties and cooperating agencies.

3. The authority shall administer the loess hills development and conservation fund created under section 161D.2 and shall deposit and expend moneys in the fund for the planning, development, and implementation of development and conservation activities or measures in the member counties.

4. This section is not intended to affect the authority of the department of natural resources in its acquisition, development, and management of public lands within the counties represented by the authority.

Sec. 2. NEW SECTION. 161D.2 LOESS HILLS DEVELOPMENT AND CONSERVATION FUND.

A loess hills development and conservation fund is created in the state treasury, to be administered by the loess hills development and conservation authority. The proceeds of the fund shall be used for the purposes specified in section 161D.1. The loess hills development and conservation authority may accept gifts, bequests, other moneys including, but not limited to, state or federal moneys, and in-kind contributions for deposit in the fund. The gifts, grants, bequests from public and private sources, state and federal moneys, and other moneys received by the authority shall be deposited in the fund and any interest earned on the fund shall be credited to the fund to be used for the purposes specified in section 161D.1. Notwithstanding section 8.33, any unexpended or unencumbered moneys remaining in the fund at the end of the fiscal year shall not revert to the general fund of the state, but the moneys shall remain available for expenditure by the authority in succeeding fiscal years.

Approved May 19, 1993

CHAPTER 137

AIR AND WATER QUALITY

H.F. 331

AN ACT relating to environmental protection by authorizing compliance with federal air quality regulations, addressing civil penalties for local governmental water quality violations, and creating penalties.

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

Section 1. Section 455B.103A, subsection 1, unnumbered paragraph 1, and subsection 5, Code 1993, are amended to read as follows:

If a permit is required pursuant to this chapter for stormwater discharge or an air contaminant source and a facility to be permitted is representative of a class of facilities which could be described and conditioned by a single permit, the director may issue, modify, deny, or revoke a general permit for all of the following conditions:

5. The enforcement provisions of division II of this chapter apply to general permits for air contaminant sources. The enforcement provisions of division III, part 1 of this chapter, apply to general permits for stormwater discharge.

Sec. 2. Section 455B.131, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9A. "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design as defined in rules adopted by the department.

Sec. 3. Section 455B.133, subsections 3 and 8, Code 1993, are amended to read as follows:

3. Adopt, amend, or repeal ambient air quality standards for the atmosphere of this state on the basis of providing air quality necessary to protect the public health and welfare and to reduce emissions contributing to acid rain pursuant to Title IV of the federal Clean Air Act Amendments of 1990.

8. a. 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. For sources subject to the provisions of Title IV of the federal Clean Air Act Amendments of 1990, permit conditions shall include emission allowances for sulfur dioxide emissions. 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~~ 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~~ shall pay operating permit fees in the same manner as other sources subject to operating permit requirements, except as provided in 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.

b. Adopt rules allowing the department to issue a state operating permit to an owner or operator of an air contaminant source. The state operating permit granted under this paragraph may only be issued at the request of an air contaminant source and will be used to limit its potential to emit to less than one hundred tons per year of a criteria pollutant as defined

by the United States environmental protection agency or ten tons per year of a hazardous air pollutant or twenty-five tons of any combination of hazardous air pollutants.

Sec. 4. Section 455B.134, subsection 3, paragraph e, Code 1993, is amended to read as follows:

e. A regulated air contaminant source for which a construction permit or conditional permit has been issued shall not be operated unless an operating permit also has been issued for the source. However, if the facility was in compliance with permit conditions prior to the requirement for an operating permit and has made timely application for an operating permit, the facility may continue operation until the operating permit is issued or denied. Operating permits shall contain the requisite conditions and compliance schedules to ensure conformance with state and federal requirements including emission allowances for sulfur dioxide emissions for sources subject to Title IV of the federal Clean Air Act Amendments of 1990. If construction of a new air contaminant source is proposed, the department may issue an operating permit concurrently with the construction permit, if possible and appropriate.

Sec. 5. NEW SECTION. 455B.146A CRIMINAL ACTION.

1. A person who knowingly violates any provision of division II of this chapter, any permit, rule, standard, or order issued under division II of this chapter, or any condition or limitation included in any permit issued under division II of this chapter, is guilty of an aggravated misdemeanor. A conviction for a violation is punishable by a fine of not more than ten thousand dollars for each day of violation or by imprisonment for not more than two years, or both. If the conviction is for a second or subsequent violation committed by a person under this section, however, the conviction is punishable by a fine of not more than twenty thousand dollars for each day of violation or by imprisonment for not more than four years, or by both.

2. a. A person who knowingly makes any false statement, representation, or certification of any application, record, report, plan, or other document filed or required to be maintained under division II of this chapter, or by any permit, rule, standard, or order issued under division II of this chapter or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under division II of this chapter, or by any permit, rule, standard, or order issued under division II of this chapter, or who knowingly fails to notify or report as required by division II of this chapter or by any permit, rule, standard, or order issued under division II of this chapter, or by any condition or limitation included in any permit issued under division II of this chapter, is guilty of an aggravated misdemeanor punishable by a fine of not more than ten thousand dollars per day per violation or by imprisonment for not more than one year, or by both. If the conviction is for a second or subsequent violation committed by a person under this paragraph, however, the conviction is punishable by a fine of not more than twenty thousand dollars for each day of violation or by imprisonment for not more than two years, or by both.

b. A person who knowingly fails to pay any fee owed the state under any provision of division II of this chapter, or any permit, rule, standard, or order issued under division II of this chapter, is guilty of an aggravated misdemeanor punishable by a fine of not more than ten thousand dollars per day per violation or by imprisonment for not more than six months, or by both. If the conviction is for a second or subsequent violation under this paragraph, however, the conviction is punishable by a fine of not more than twenty thousand dollars for each day of violation or by imprisonment for not more than one year, or by both.

3. A person who negligently releases into the ambient air any hazardous air pollutant or extremely hazardous substance, and who at the time negligently places another person in imminent danger of death or serious bodily injury shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars for each day of violation or by imprisonment for not more than one year, or by both. If the conviction is for a second or subsequent negligent violation committed by a person under this section, however, the conviction is punishable by a fine of not more than fifty thousand dollars for each day of violation or by imprisonment for not more than two years, or by both.

4. a. A person who knowingly releases into the ambient air any hazardous air pollutant or extremely hazardous substance, and who knows at the time that the conduct places another person in imminent danger of death or serious bodily injury shall, upon conviction, if the person committing the violation is an individual or a government entity, be punished by a fine of not more than fifty thousand dollars per violation or by imprisonment for not more than two years, or by both. However, if the person committing the violation is other than an individual or a government entity, upon conviction the person shall be punished by a fine of not more than one million dollars per violation. If the conviction is for a second or subsequent violation under this paragraph, the conviction is punishable by a fine or imprisonment, or both, as consistent with federal law.

b. In determining whether a defendant who is an individual knew that the violation placed another person in imminent danger of death or serious bodily injury the following shall apply:

(1) The defendant is deemed to have knowledge only if the defendant possessed actual awareness or held an actual belief.

(2) Knowledge possessed by a person other than the defendant, and not by the defendant personally, is not attributable to the defendant. In establishing a defendant's possession of actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative action to be shielded from relevant information.

c. It is an affirmative defense that the conduct was freely consented to by the person endangered and that the danger and conduct were reasonably foreseeable hazards of either of the following:

(1) An occupation, a business, or a profession.

(2) Medical treatment or medical or scientific experimentation conducted by professionally approved methods if the person was made aware of the risks involved prior to providing consent. An affirmative defense under this subparagraph shall be established by a preponderance of the evidence.

d. All general defenses, affirmative defenses, and bars to prosecution that are applicable with respect to other criminal offenses apply under paragraph "a". All defenses and bars to prosecution shall be determined by the courts in accordance with the principles of common law as interpreted, taking into consideration the elements of reason and experience. The concepts of justification and legal excuse, as applicable, may be developed, taking into consideration the elements of reason and experience.

e. As used in this subsection, "serious bodily injury" means bodily injury which involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

5. a. Notwithstanding this section, a source required to obtain a permit for construction or modification of a source prior to the date on which the state received delegation of the federal operating permit program which failed to timely file for the permit is subject to the civil penalty for noncompliance in effect at the time.

b. This subsection does not provide an exception from application of the penalties established under this section for failure of a person to file a timely and complete application for a federal construction permit.

c. This subsection does not provide an exception from application of the penalties established in this section for a person who does not file a timely and complete application for a required permit once notified, in writing, by the department of the noncompliance. A person who does not comply following notification of noncompliance is subject to the criminal penalties established under this section.

Sec. 6. Section 455B.147, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 7. NEW SECTION. 455B.150 COMPLIANCE ADVISORY PANEL.

A compliance advisory panel shall be created, pursuant to Title V, section 507(e) of the federal Clean Air Act Amendments of 1990, to review and report on the effectiveness of the small business technical assistance program required by the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549.

Sec. 8. NEW SECTION. 455B.192 LOCAL GOVERNMENT — PENALTIES.

Notwithstanding sections 331.302, 331.307, 364.3, and 364.22, a city or county may assess a civil penalty for a violation of this division which is equal to the amount the department has assessed for a violation under this division.

Approved May 19, 1993

CHAPTER 138

LIQUIFIED PETROLEUM GAS CONTAINERS

H.F. 360

AN ACT relating to containers used for liquified petroleum gas and providing a penalty.

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

Section 1. NEW SECTION. 101.13 LIQUIFIED PETROLEUM GAS CONTAINERS.

1. If a liquified petroleum gas container designed to hold more than twenty pounds of liquified petroleum gas has the name, mark, initials, or other identifying device of the owner in plainly legible characters on the surface of the container, a person other than the owner or a person authorized by the owner shall not do any of the following:

a. Fill or refill the container with liquified petroleum gas or any other gas or compound except when the owner is unable to supply liquified petroleum gas to a person to whom the owner is leasing or furnishing the container and to whom the owner ordinarily supplies the liquified petroleum gas in which case, the owner shall authorize the refilling of the container by another person designated by the owner.

b. Buy, sell, offer for sale, give, take, loan, deliver or permit to be delivered, or otherwise use the container.

c. Deface, remove, conceal, or change the name, mark, initials, or other identifying device of the owner.

d. Place the name, mark, initials, or other identifying device indicating ownership by any person other than the owner on the container.

2. A person who violates this section is guilty of a simple misdemeanor. Each violation of this section shall constitute a separate offense.

Approved May 19, 1993

CHAPTER 139

DEPARTMENT OF PUBLIC HEALTH — MISCELLANEOUS PROVISIONS

H.F. 361

AN ACT relating to areas under the purview of the Iowa department of public health related to substitute medical decision-making boards, home care aide drivers' licensure, the use of mammography machines, burial transit permits, substance abuse treatment programs, and the membership of the council on chemically exposed infants by adding representation by the department of corrections.

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

Section 1. NEW SECTION. 125.15A LICENSURE — EMERGENCIES.

1. The department may place an employee or agent to serve as a monitor in a licensed substance abuse treatment program or may petition the court for appointment of a receiver for a program when any of the following conditions exist:

a. The program is operating without a license.

b. The commission has suspended, revoked, or refused to renew the existing license of the program.

c. The program is closing or has informed the department that it intends to close and adequate arrangements for the location of clients have not been made at least thirty days before the closing.

d. The department determines that an emergency exists, whether or not it has initiated revocation or nonrenewal procedures, and because of the unwillingness or inability of the licensee to remedy the emergency, the department determines that a monitor or receiver is necessary. As used in this paragraph, "emergency" means a threat to the health, safety, or welfare of a client that the program is unwilling or unable to correct.

2. The monitor shall observe operation of the program, assist the program with advice regarding compliance with state regulations, and report periodically to the department on the operation of the program.

Sec. 2. Section 135.28, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A state substitute medical decision-making board is established to formulate policy and guidelines for the operations of local substitute medical decision-making boards, and to act if a local substitute medical decision-making board does not exist. The department, with the approval of the state substitute medical decision-making board, shall adopt rules pursuant to chapter 17A for the appointment and operation of local substitute medical decision-making boards. Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the state substitute medical decision-making board may issue subpoenas relating to the production of medical records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

Sec. 3. Section 135.29, subsection 2, Code 1993, is amended to read as follows:

2. Pursuant to rules adopted by the department, the local substitute medical decision-making board may act as a substitute decision maker for patients incapable of making their own medical care decisions if no other substitute decision maker is available to act. The local substitute medical decision-making board may exercise decision-making authority in situations where there is sufficient time to review the patient's condition, and a reasonably prudent person would consider a decision to be medically necessary. Such medically necessary decisions shall constitute good cause for subsequently filing a petition in the district court for appointment of a guardian pursuant to chapter 633, but the local substitute medical decision-making board shall continue to act in the patient's best interests until a guardian is appointed. Notwithstanding any other provision to the contrary regarding confidentiality of medical records, the local substitute decision-making board may issue subpoenas relating to the production of medical

records of a patient under the board's review. A person participating in good faith in releasing medical record information in response to a board subpoena is immune from any liability, civil or criminal, which might otherwise be incurred or imposed.

Sec. 4. Section 136C.15, subsection 2, paragraph d, Code 1993, is amended by striking the paragraph.

Sec. 5. NEW SECTION. 144.32 BURIAL TRANSIT PERMIT.

If a person other than a funeral director assumes custody of a dead body or fetus, the person shall secure a burial-transit permit. To be valid, the burial-transit permit must be issued by the county medical examiner, a funeral director, or the county registrar of the county where the certificate of death or fetal death was filed. The permit shall be obtained prior to the removal of the body or fetus from the place of death and the permit shall accompany the body or fetus to the place of final disposition.

To transfer a dead body or fetus outside of this state, the funeral director who first assumes custody of the dead body or fetus shall obtain a burial-transit permit prior to the transfer. The permit shall accompany the dead body or fetus to the place of final disposition.

A dead body or fetus brought into this state for final disposition shall be accompanied by a burial-transit permit under the law of the state in which the death occurred.

A burial-transit permit shall not be issued to a person other than a funeral director when the cause of death is or is suspected to be a communicable disease as defined by rule of the department.

Sec. 6. Section 235C.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. The director of the department of corrections or the director's designee, as a nonvoting ex officio member.

Sec. 7. Section 321.1, subsection 8, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person is not a chauffeur when the operation is by a home care aide in the course of the home care aide's duties.

Sec. 8. Section 321.176A, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A home care aide operating a motor vehicle in the course of the home care aide's duties.

Approved May 19, 1993

CHAPTER 140

HIV-RELATED TESTS FOR CONVICTED SEXUAL ASSAULT OFFENDERS

H.F. 418

AN ACT relating to the testing of a person for the human immunodeficiency virus following conviction for certain offenses, making relief provisions applicable for violation of confidentiality, and providing a penalty.

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

Section 1. NEW SECTION. 709B.1 DEFINITIONS.

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

1. "AIDS" means acquired immune deficiency syndrome as defined by the centers for disease control of the United States department of health and human services.

2. "Convicted offender" means a person convicted of a sexual assault.

3. "Department" means the Iowa department of public health.

4. "Division" means the crime victims assistance division of the office of the attorney general.

5. "HIV" means the human immunodeficiency virus identified as the causative agent of AIDS.

6. "HIV-related test" means a test for the antibody or antigen to HIV.

7. "Petitioner" means a person who is the victim of a sexual assault which resulted in alleged significant exposure or the parent, guardian, or custodian of a victim if the victim is a minor, for whom the county attorney files a petition with the district court to require the convicted offender to undergo an HIV-related test.

8. "Sexual assault" means sexual abuse as defined in section 709.1, or any other sexual offense by which a victim has allegedly had sufficient contact with a convicted offender to be deemed a significant exposure.

9. "Significant exposure" means contact of the victim's ruptured or broken skin or mucous membranes with the blood or bodily fluids, other than tears, saliva, or perspiration of the convicted offender. "Significant exposure" is presumed to have occurred when there is a showing that there was penetration of the convicted offender's penis into the victim's vagina or anus, contact between the mouth and genitalia, or contact between the genitalia of the offender and the genitalia or anus of the victim.

10. "Victim counselor" means a person who is engaged in a crime victim center as defined in section 236A.1, who is certified as a counselor by the crime victim center, and who has completed at least twenty hours of training provided by the Iowa coalition against sexual assault or a similar agency.

Sec. 2. NEW SECTION. 709B.2 HIV-RELATED TEST — CONVICTED SEXUAL ASSAULT OFFENDER.

1. If a person is convicted of sexual assault, the county attorney, if requested by the petitioner, shall petition the court for an order requiring the person convicted to submit to an HIV-related test, provided that all of the following conditions are met:

a. The sexual assault for which the offender was convicted included sufficient contact between the victim and the offender to be deemed a significant exposure pursuant to section 709B.1.

b. The authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender to the testing.

c. Written informed consent was not provided by the convicted offender.

2. Upon receipt of the petition, the court shall:

a. Prior to the scheduling of a hearing, refer the victim for counseling by a victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, regarding the nature, reliability, and significance of the HIV-related test and of the serologic status of the convicted offender.

b. Schedule a hearing to be held as soon as is practicable.

c. Cause written notice to be served on the convicted offender who is the subject of the proceeding, in accordance with the rules of civil procedure relating to the service of original notice, or if the convicted offender is represented by legal counsel, provide written notice to the convicted offender and the convicted offender's legal counsel.

d. Provide for the appointment of legal counsel for a convicted offender if the convicted offender desires but is financially unable to employ counsel.

e. Furnish legal counsel with copies of the petition.

3. Unless a petitioner chooses to be represented by private counsel, the county attorney shall represent the victim's interest in all proceedings under this section.

4. a. A hearing under this section shall be conducted in an informal manner consistent with orderly procedure and in accordance with the Iowa rules of evidence. The hearing shall be limited in scope to the review of questions of fact only as to the issue of whether the sexual assault for which the offender was convicted provided sufficient contact between the victim and the offender to be deemed a significant exposure and to questions of law.

b. In determining whether the contact should be deemed a significant exposure, the court shall base the determination on the testimony presented during the proceedings on the sexual

assault charge, the minutes of the testimony or other evidence included in the court record, or if a plea of guilty was entered, based upon the complaint or upon testimony provided during the hearing.

c. The victim may testify at the hearing, but shall not be compelled to testify. The court shall not consider the refusal of a victim to testify at the hearing as material to the court's decision regarding issuance of an order requiring testing.

d. The hearing shall be in camera unless the convicted offender and the petitioner agree to a hearing in open court and the court approves. The report of the hearing proceedings shall be sealed and no report of the proceedings shall be released to the public, except with the permission of all parties and the approval of the court.

e. Stenographic notes or electronic or mechanical recordings shall be taken of all court hearings unless waived by the parties.

5. Following the hearing, the court may require a convicted offender to undergo an HIV-related test only if the petitioner proves all of the following by a preponderance of the evidence:

a. The sexual assault constituted a significant exposure.

b. An authorized representative of the petitioner, the county attorney, or the court sought to obtain written informed consent from the convicted offender.

c. Written informed consent was not provided by the convicted offender.

6. A convicted offender who is required to undergo an HIV-related test may appeal to the court for review of questions of law only, but may appeal questions of fact if the findings of fact are clearly erroneous.

Sec. 3. NEW SECTION. 709B.3 TESTING, REPORTING, AND COUNSELING — PENALTIES.

1. The physician or other practitioner who orders the test of a convicted offender for HIV under this chapter shall disclose the results of the test to the convicted offender and to the victim counselor or a person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, who shall disclose the results to the petitioner.

2. All testing under this chapter shall be accompanied by pretest and posttest counseling as required under section 141.22.

3. Subsequent testing arising out of the same incident of exposure shall be conducted in accordance with the procedural and confidentiality requirements of this chapter.

4. Results of a test performed under this chapter, except as provided in subsection 6, shall be disclosed only to the physician or other practitioner who orders the test of the convicted offender, the convicted offender, the victim, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, the physician of the victim if requested by the victim, and the parent, guardian, or custodian of the victim, if the victim is a minor. Results of a test performed under this chapter shall not be disclosed to any other person without the written, informed consent of the convicted offender. A person to whom the results of a test have been disclosed under this chapter is subject to the confidentiality provisions of section 141.23, and shall not disclose the results to another person except as authorized by section 141.23, subsection 1.

5. Notwithstanding subsection 4, test results shall not be disclosed to a convicted offender who elects against disclosure.

6. If testing is ordered under this chapter, the court shall also order periodic testing of the convicted offender during the period of incarceration, probation, or parole if the physician or other practitioner who ordered the initial test of the convicted offender certifies that, based upon prevailing scientific opinion regarding the maximum period during which the results of an HIV-related test may be negative for a person after being HIV-infected, additional testing is necessary to determine whether the convicted offender was HIV-infected at the time the sexual assault was perpetrated. The results of the test conducted pursuant to this subsection shall be released only to the physician or other practitioner who orders the test of the convicted offender, the convicted offender, the victim counselor or person requested by the

victim who is authorized to provide the counseling required pursuant to section 141.22, who shall disclose the results to the petitioner, and the physician of the victim, if requested by the victim.

7. The court shall not consider the disclosure of an alleged offender's serostatus to an alleged victim, prior to conviction, as a basis for a reduced plea or reduced sentence.

8. The fact that an HIV-related test was performed under this chapter and the results of the test shall not be included in the convicted offender's medical or criminal record unless otherwise included in department of corrections records.

9. The fact that an HIV-related test was performed under this chapter and the results of the test shall not be used as a basis for further prosecution of a convicted offender in relation to the incident which is the subject of the testing, to enhance punishments, or to influence sentencing.

10. If the serologic status of a convicted offender, which is conveyed to the victim, is based upon an HIV-related test other than a test which is authorized as a result of the procedures established in this chapter, legal protections which attach to such testing shall be the same as those which attach to an initial test under this chapter, and the rights to a predisclosure hearing and to appeal provided under this chapter shall apply.

11. HIV-related testing required under this chapter shall be conducted by the state hygienic laboratory.

12. Notwithstanding the provisions of this chapter requiring initial testing, if a petition is filed with the court under section 709B.1* requesting an order for testing and the order is granted, and if a test has previously been performed on the convicted offender while under the control of the department of corrections, the test results shall be provided in lieu of the performance of an initial test of the convicted offender, in accordance with this chapter.

13. In addition to the counseling received by a victim, referral to appropriate health care and support services shall be provided.

14. In addition to persons to whom disclosure of the results of a convicted offender's HIV-related test results is authorized under this chapter, the victim may also disclose the results to the victim's spouse, persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault, or members of the victim's family within the third degree of consanguinity.

15. A person to whom disclosure of a convicted offender's HIV-related test results is authorized under this chapter shall not disclose the results to any other person for whom disclosure is not authorized under this chapter. A person who intentionally or recklessly makes an unauthorized disclosure under this chapter 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 chapter. Proceedings maintained under this subsection shall provide for the anonymity of the test subject and all documentation shall be maintained in a confidential manner.

Sec. 4. Section 135.11, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 24. Adopt rules which provide for the testing of a convicted offender for the human immunodeficiency virus pursuant to chapter 709B. The rules shall provide for the provision of counseling, health care, and support services to the victim.

Sec. 5. Section 141.23, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The convicted offender, the physician or other practitioner who orders the test of the convicted offender, the victim, the parent, guardian, or custodian of the victim if the victim is a minor, the physician of the victim, the victim counselor or person requested by the victim who is authorized to provide the counseling required pursuant to section 141.22, and the victim's spouse, persons with whom the victim has engaged in vaginal, anal, or oral intercourse subsequent to the sexual assault, or members of the victim's family within the fourth degree of consanguinity.

Approved May 19, 1993

*Section 709B.2 probably intended

CHAPTER 141

CLEANUP OF CLANDESTINE LABORATORY SITES

H.F. 419

AN ACT relating to the recovery by the department of public safety of costs associated with the cleanup of a clandestine laboratory site.

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

Section 1. NEW SECTION. 124C.1 DEFINITIONS.

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

1. "Clandestine laboratory site" means a location or operation, including but not limited to buildings or vehicles equipped with glassware, heating devices, and precursors or related reagents and solvents needed to unlawfully prepare or manufacture controlled substances defined in chapter 124.

2. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, disassemble, treat, remove or otherwise disperse all substances and materials, including but not limited to those found to be hazardous waste as defined in section 455B.411 and controlled substances defined in chapter 124, including contamination caused by those chemicals or substances.

3. "Commissioner" means the commissioner of public safety.

4. "Department" means the department of public safety.

5. "Hazardous substance" means any substance or mixture of substances that presents a danger to the public health or safety and includes, but is not limited to, a substance that is toxic, corrosive, or flammable, and other substances defined in rules adopted pursuant to section 455B.381 and controlled substances as defined in chapter 124.

6. "Person having control over a clandestine laboratory site" means a person who at any time possesses, produces, handles, stores, uses, transports, or disposes of a hazardous substance or controlled substance used or intended for use at a clandestine laboratory site. A person having control over a clandestine laboratory site does not include persons performing duties listed in section 124C.2 at the direction of the commissioner and does not include a person who is the owner of the property or a person holding a security interest in the property in or upon which the clandestine laboratory site is located unless the person knew that a clandestine laboratory existed in or upon the person's property.

Sec. 2. NEW SECTION. 124C.2 POWERS AND DUTIES OF THE COMMISSIONER.

1. The commissioner or the commissioner's designee may use funds appropriated or otherwise available to the department for the following purposes:

a. Administrative services for the identification, assessment, and cleanup of clandestine laboratory sites.

b. Payments to other government agencies or private contractors for services consistent with the management and cleanup of a clandestine laboratory site.

c. Emergency response activities involving clandestine laboratory sites, including surveillance, entry, security, cleanup, and disposal.

The commissioner may request the assistance of other state, federal, and local agencies as necessary.

2. The commissioner shall proceed, pursuant to this section, to collect all costs incurred in cleanup of a clandestine laboratory site from the person having control over a clandestine laboratory site.

3. The commissioner shall make all reasonable efforts to recover the full amount of moneys expended, through litigation or otherwise. Moneys recovered shall be deposited with the treasurer of state and credited to the department of public safety.

Sec. 3. NEW SECTION. 124C.3 LIABILITY TO THE STATE.

A person having control over a clandestine laboratory site shall be strictly liable to the state for all of the following:

1. The reasonable costs incurred by the state as a result of cleanup of the site.

2. The reasonable costs incurred by the state to evacuate people from the area threatened by the clandestine laboratory site.

3. The reasonable damages to the state for the injury to, destruction of, or loss of natural resources resulting from the clandestine laboratory site, including the costs of assessing the injury, destruction, or loss.

Sec. 4. NEW SECTION. 124C.4 CLAIM OF STATE.

1. An amount for which a person having control over a clandestine laboratory is liable to the state shall constitute a lien in favor of the state upon all property and rights to property, real and personal, belonging to that person. This lien shall attach at the time the charges set out in section 124C.3 become due and payable and shall continue for ten years from the time the lien attaches unless sooner released or otherwise discharged. The lien may be extended, within ten years from the date the lien attaches by filing a notice with the appropriate county official of the appropriate county and from the time of filing the lien shall be extended as to the property in that county for ten years, unless sooner released or otherwise discharged, with no limit on the number of extensions.

2. In order to preserve the lien against subsequent mortgagees, purchasers, or judgment creditors for value and without notice of the lien, the commissioner shall file with the recorder of the county in which the property is located a notice of the lien. A laboratory cleanup lien shall be recorded in the index of income tax liens in the county.

3. Each notice of lien shall be endorsed with the day, hour, and minute when the notice was received, the notice shall be preserved, indexed in the index book, and recorded in the manner provided for recording real estate mortgages. The lien shall be effective from the time of its indexing. The department shall pay a recording fee as provided by section 331.604 for the recording of the lien or for its satisfaction.

4. Upon payment of a charge for which the commissioner has filed a notice of lien with a county, the commissioner shall immediately file with the county a satisfaction of the charge and the satisfaction of the charge shall be indicated on the index.

The attorney general, upon the request of the commissioner, shall bring an action at law or in equity, without bond, to enforce payment of any charges or penalties, and in such action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

The remedies available to the state in this chapter shall be cumulative and no action taken by the commissioner or attorney general shall be construed to be an election on the part of the state to pursue any remedy to the exclusion of any other remedy provided by law.

Sec. 5. NEW SECTION. 124C.5 LIABILITY OF STATE EMPLOYEES OR PERSONS PROVIDING CLEANUP ASSISTANCE.

The state and its officers or employees are not liable for damages or injury caused by a condition at a clandestine laboratory site or resulting from action or inaction taken by any officers or employees when acting in their official capacity pursuant to this chapter, unless the damage or injury resulted from intentional wrongdoing or gross negligence.

Sec. 6. NEW SECTION. 124C.6 LEGAL REMEDIES.

This chapter does not deny a person any legal or equitable rights, remedies, or defenses, or affect any legal relationship other than the legal relationship between the state and a person having control over a clandestine laboratory site.

Sec. 7. NEW SECTION. 124C.7 RULEMAKING AUTHORITY.

The department may adopt rules pursuant to chapter 17A necessary to administer this chapter.

Approved May 19, 1993

CHAPTER 142

CAMPAIGN FINANCE

H.F. 576

AN ACT relating to the procedures of and requirements enforced by the campaign finance disclosure commission and changing filing and other procedural requirements placed on candidates and political committees.

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

Section 1. Section 56.2, subsection 4, Code 1993, is amended to read as follows:

4. "Candidate's committee" means the committee designated by the candidate for a state, county, city, or school office to receive contributions in excess of five hundred dollars in the aggregate, expend funds in excess of five hundred dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of five hundred dollars in the aggregate ~~as follows:~~

~~a. For federal, state, or county office, in excess of two hundred fifty dollars~~ in any calendar year ~~on behalf of the candidate~~.

~~b. For city or school office, in excess of five hundred dollars in any calendar year on behalf of the candidate.~~

Sec. 2. Section 56.2, subsection 15, Code 1993, is amended to read as follows:

15. "Political committee" means a committee, but not a candidate's committee, which accepts contributions in excess of two hundred fifty dollars in the aggregate, makes expenditures in excess of two hundred fifty dollars in the aggregate, or incurs indebtedness in excess of two hundred fifty dollars in the aggregate ~~of more than two hundred fifty dollars~~ in any one calendar year for the purpose of supporting or opposing a candidate for public office or ballot issue, or an association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization which makes contributions in the aggregate of more than two hundred fifty dollars in any one calendar year for the purpose of supporting or opposing a candidate for public office or a ballot issue. "Political committee" also includes a committee which accepts contributions in excess of two hundred fifty dollars in the aggregate, makes expenditures in excess of two hundred fifty dollars in the aggregate, or incurs indebtedness in excess of two hundred fifty dollars in the aggregate ~~of more than two hundred fifty dollars~~ in a calendar year to cause the publication or broadcasting of material in which the public policy positions or voting record of an identifiable candidate is discussed and in which a reasonable person could find commentary favorable or unfavorable to those public policy positions or voting record.

Sec. 3. Section 56.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 15A. "Political purpose" or "political purposes" means the support or opposition of a candidate or ballot issue.

Sec. 4. Section 56.3, subsections 1, 2, and 4, Code 1993, are amended to read as follows:

1. Every committee shall appoint a treasurer who shall be an Iowa resident who has reached the age of majority. An expenditure shall not be made by the treasurer or treasurer's designee for or on behalf of a committee without the approval of the chairperson of the committee, or the candidate.

2. An individual who receives contributions for a committee without the prior authorization of the chairperson of the committee or the candidate shall be responsible for either rendering the contributions to the treasurer within fifteen days of the date of receipt of the contributions, or depositing the contributions in the account maintained by the committee within seven days of the date of receipt of the contributions. A person who receives contributions for a committee shall, not later than fifteen days from the date of receipt of the contributions or on demand of the treasurer, render to the treasurer the contributions and an account of the total of all contributions; including the name and address of each person making a contribution in excess of ten dollars, the amount of the contributions, and the date on which the

contributions were received. The treasurer shall deposit all contributions within seven days of receipt by the treasurer in an account maintained by the committee in a financial institution located in Iowa. All funds of a committee shall be segregated from any other funds held by officers, members, or associates of the committee or the committee's candidate. However, if a candidate's committee receives contributions only from the candidate, or if a permanent organization temporarily engages in activity which qualifies it as a political committee and all expenditures of the organization are made from existing general operating funds and funds are not solicited or received for this purpose from sources other than operating funds, then that committee is not required to maintain a separate account in a financial institution. The funds of a committee are not attachable for the personal debt of the committee's candidate or an officer, member, or associate of the committee.

4. The treasurer and candidate in the case of a candidate's committee, and the treasurer and chairperson in the case of a political committee, shall preserve all records required to be kept by this section for a period of ~~one year~~ three years from the date of the election in which the committee is involved, or the certified date of dissolution of the committee, whichever is applicable.

Sec. 5. Section 56.5, subsection 2, paragraphs c and f, and subsection 5, Code 1993, are amended to read as follows:

c. The name, address, office sought, and the party affiliation of all candidates whom the committee is supporting and, if the committee is supporting the entire ticket of any party, the name of the party. If, however, the committee is supporting several candidates who are not identified by name or are not of the same political affiliation, the committee may provide a statement of purpose in lieu of candidate names or political party affiliation.

f. A signed statement by the treasurer of the committee and the candidate, in the case of a candidate's committee, or by the treasurer of the committee and the chairperson, in the case of a political committee, which shall ~~be in the following form:~~

"~~I am~~ verify that they are aware ~~that I am required~~ of the requirement to file disclosure reports if the committee ~~receives~~, the committee officers, the candidate, or both the committee officers and the candidate receive contributions in excess of five hundred dollars in the aggregate, ~~makes~~ make expenditures in excess of five hundred dollars in the aggregate, or ~~incurs~~ incur indebtedness in excess of ~~two hundred fifty~~ five hundred dollars in the aggregate in a calendar year for the purpose of supporting or opposing any candidate for public office ~~or ballot issue~~." In the case of statements relating to ballot issues, a two hundred fifty dollar aggregate threshold level shall apply instead of the five hundred dollar threshold level.

5. A committee or organization not domiciled in Iowa which makes a contribution to a candidate's committee or political committee domiciled in Iowa shall disclose each contribution to the commission. A committee or organization not domiciled in Iowa which is not registered and filing full disclosure reports of all financial activities with the federal election commission or another state's disclosure commission shall register and file full disclosure reports with the commission pursuant to this chapter, shall appoint an eligible Iowa elector as committee or organization treasurer, and shall maintain an account in a financial institution located in Iowa. A committee which is currently filing a disclosure report in another jurisdiction shall either file a statement of organization under subsections 1 and 2 and file disclosure reports, the same as those required of Iowa-domiciled committees, under section 56.6, or shall file one copy of a verified statement with the commission and a second copy with the treasurer of the committee receiving the contribution. The form shall be completed and filed at the time the contribution is made. The verified statement shall be on forms prescribed by the commission. The form shall include the complete name, address, and telephone number of the contributing committee, the state or federal jurisdiction under which it is registered or operates, the identification of any parent entity or other affiliates or sponsors, its purpose, the name, ~~and~~ address, and signature of an Iowa resident authorized to receive service of original notice and the name and address of the receiving committee, the amount of the cash or in-kind contribution, and the date the contribution was made.

Sec. 6. Section 56.5A, Code 1993, is amended to read as follows:

56.5A CANDIDATE'S COMMITTEE.

Each candidate for federal, state, ~~or~~ county, city, or school office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions in excess of five hundred dollars in the aggregate, makes expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of two hundred fifty dollars in the aggregate in a calendar year.

~~Each candidate for city or school office shall organize one, and only one, candidate's committee for a specific office sought when the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of five hundred dollars in a calendar year.~~

Sec. 7. Section 56.10, subsection 1, Code 1993, is amended to read as follows:

1. Review the contents of all disclosure reports and other statements filed with the commission and promptly advise each committee of errors found. The commission may verify information contained in the reports with other parties to assure accurate disclosure. The commission may, upon its own motion, initiate action and conduct a hearing under section ~~56.11, subsections 1 and 2~~ 56.30, subsection 7, and section 56.31. The commission may require the county commissioner to file summary reports with it periodically.

Sec. 8. Section 56.12A, Code 1993, is amended to read as follows:

56.12A USE OF PUBLIC MONEYS FOR POLITICAL PURPOSES.

The state and the governing body of a county, city, or other political subdivision of the state shall not expend or permit the expenditure of public moneys for political purposes, including supporting or opposing a ballot issue.

This section shall not be construed to limit the freedom of speech of ~~the governing body of, or the~~ officials or employees of the state or of officials or employees of ~~the~~ a governing body of, a county, city, or other political subdivision of the state. This section also shall not be construed to prohibit the state or a governing body of a political subdivision of the state from expressing an opinion on a ballot issue through the passage of a resolution or proclamation.

Sec. 9. Section 56.15, subsections 1 and 4, Code 1993, are amended to read as follows:

1. Except as provided in ~~subsection~~ subsections 3 and 4, it is unlawful for an insurance company, savings and loan association, bank, credit union, or corporation organized pursuant to the laws of this state or any other state, territory, or foreign country, whether for profit or not, or an officer, agent or representative acting for such insurance company, savings and loan association, bank, credit union, or corporation, to contribute any money, property, labor, or thing of value, directly or indirectly, to a committee, or for the purpose of influencing the vote of an elector, except that such resources may be so expended in connection with a utility franchise election held pursuant to section 364.2, subsection 4, or a ballot issue. All such expenditures are subject to the disclosure requirements of this chapter.

4. The restrictions imposed by this section relative to making, soliciting or receiving contributions shall not apply to a nonprofit corporation or organization which uses those contributions to encourage registration of voters and participation in the political process, or to publicize public issues, or both, but does not use any part of those contributions to endorse or oppose any candidate for public office ~~or~~. A nonprofit corporation or organization may use contributions solicited or received to support or oppose ballot issues but the expenditures shall be disclosed by the nonprofit corporation or organization in the manner provided for a permanent organization temporarily engaged in a political activity under section 56.6.

Sec. 10. Section 56.40, Code 1993, is amended to read as follows:

56.40 CAMPAIGN FUNDS.

As used in this division, "campaign funds" means contributions to a candidate or candidate's committee which are required by this chapter to be deposited in a separate campaign account. A candidate's committee shall not accept contributions from any other candidate's committee

including candidate's committees from other states or for federal office, unless the candidate for whom each committee is established is the same person. For purposes of this section, "contributions" does not mean travel costs incurred by a candidate in attending a campaign event of another candidate. This section shall not be construed to prohibit a candidate or candidate's committee from using campaign funds or accepting contributions for tickets to meals if the candidate attends solely for the purpose of enhancing the person's candidacy or the candidacy of another person.

Sec. 11. Section 56.41, subsection 1, Code 1993, is amended to read as follows:

1. A candidate and the candidate's committee shall use campaign funds only for campaign purposes, educational and other expenses associated with the duties of office, or constituency services, and shall not use campaign funds for personal expenses or personal benefit.

Sec. 12. Section 331.756, subsection 15, Code 1993, is amended to read as follows:

15. Review the ~~report and recommendations~~ order and supporting information of the campaign finance disclosure commission and proceed to institute the recommended actions or advise the commission that prosecution is not merited as provided in section ~~56.11, subsection~~ 4 56.34.

Sec. 13. Section 56.11, Code 1993, is repealed.

Approved May 19, 1993

CHAPTER 143

ELECTION LAWS

H.F. 652

AN ACT relating to the office of secretary of state, the conduct of elections and voter registration in the state, and relating to corrective and technical changes to Iowa's election laws, providing an effective date, and providing penalties.

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

Section 1. Section 9.4, subsection 2, Code 1993, is amended to read as follows:

2. For a copy of any law or record, upon the request of any ~~private~~ person ~~or corporation~~, a fee to be determined by the secretary of state ~~not to exceed ten cents per page~~ by rule adopted pursuant to chapter 17A.

Sec. 2. Section 39.2, subsection 3, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. If a special election to fill a vacancy is held in conjunction with a regularly scheduled election, the filing deadlines for the special election shall coincide with the filing deadlines for the regularly scheduled election. An election to fill a vacancy in a city office cannot be held in conjunction with a general election if the city election procedures provide for a primary election.

Sec. 3. Section 39.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Public measure" means any question authorized or required by law to be submitted to the voters at an election.

Sec. 4. NEW SECTION. 39.11 MORE THAN ONE OFFICE PROHIBITED.

Statewide elected officials and members of the general assembly shall not hold more than one elective office at a time. All other elected officials shall not hold more than one elective

office at the same level of government at a time. This section does not apply to the following offices: county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

Sec. 5. NEW SECTION. 39.12 FAILURE TO VACATE.

An elected official who has been elected to another elective office to which section 39.11 applies shall choose only one office in which to serve. The official shall resign from all but one of the offices to which section 39.11 applies before the beginning of the term of the office to which the person was most recently elected. Failure to submit the required resignation will result in a vacancy in all elective offices to which the person was elected.

Sec. 6. NEW SECTION. 43.59 NUMBER OF VOTERS CERTIFIED.

The commissioner shall certify to the state commissioner the total number of people who voted in the primary election in each political party.

Sec. 7. Section 44.16, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

44.16 RETURN OF PAPERS – ADDITIONS NOT ALLOWED.

After a nomination petition or certificate has been filed, it shall not be returned to the candidate or person who has filed the document, and no signature or other information shall be added to the nomination petition or certificate.

Sec. 8. Section 45.1, subsections 1 through 3, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

1. Nominations for candidates for president and vice president, governor and lieutenant governor, and for other statewide elected offices may be made by nomination petitions signed by not less than one thousand five hundred eligible electors residing in not less than ten counties of the state.

2. Nominations for candidates for a representative in the United States house of representatives may be made by nomination petitions signed by not less than the number of eligible electors equal to the number of signatures required in subsection 1 divided by the number of congressional districts.

3. Nominations for candidates for the state senate may be made by nomination petitions signed by not less than one hundred eligible electors of the senate district.

3A. Nominations for candidates for the state house of representatives may be made by nomination petitions signed by not less than fifty eligible electors of the representative district.

3B. Nominations for candidates for offices filled by the voters of a whole county may be made by nomination petitions signed by eligible electors of the county equal in number to at least one percent of the number of registered voters in the county on July 1 in the year preceding the year in which the office will appear on the ballot, or by at least two hundred fifty eligible electors of the county, whichever is less.

3C. Nominations for candidates for the office of county supervisor elected by the voters of a supervisor district may be made by nomination petitions signed by eligible electors of the supervisor district equal in number to at least one percent of the number of registered voters in the supervisor district on July 1 in the year preceding the year in which the office will appear on the ballot, or by at least one hundred fifty eligible electors of the supervisor district, whichever is less.

3D. Nomination papers for the offices of president and vice president shall include the names of the candidates for both offices on each page of the petition. A certificate listing the names of the candidates for presidential electors, one from each congressional district and two from the state at large, shall be filed in the state commissioner's office at the same time the nomination papers are filed.

Nomination papers for the offices of governor and lieutenant governor shall include the names of candidates for both offices on each page of the petition. Nomination papers for other statewide elected offices and all other offices shall include the name of the candidate on each page of the petition.

Sec. 9. Section 47.1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural or other disaster or extremely inclement weather has occurred. The state commissioner of elections may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

Sec. 10. Section 47.6, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. A public measure shall not be withdrawn from the ballot at any election if the public measure was placed on the ballot by a petition, or if the election is a special election called specifically for the purpose of deciding one or more public measures for a single political subdivision. However, a public measure which was submitted to the county commissioner of elections by the governing body of a political subdivision may be withdrawn by the governing body which submitted the public measure if the public measure was to be placed on the ballot of a regularly scheduled election. The notice of withdrawal must be made by resolution of the governing body and must be filed with the commissioner no later than the last day upon which a candidate may withdraw from the ballot.

Sec. 11. Section 47.8, subsection 1, Code 1993, is amended to read as follows:

1. There is established a state voter registration commission which shall meet at least ~~once each month~~ quarterly to make and review policy, ~~promulgate~~ adopt rules and establish procedures to be followed by the registrar in discharging the duties of that office. The commission shall consist of the state commissioner of elections or the state commissioner's designee and the state chairpersons of the two political parties whose candidates for president of the United States or governor, as the case may be, received the greatest and next greatest number of votes in the most recent general election, or their respective designees, who shall serve without additional salary or reimbursement.

Sec. 12. Section 48.16, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Any person designated by the commissioner, or by the registrant, to deliver the completed registration form, who willfully fails to deliver the registration form to the commissioner or the commissioner's designee, is guilty of a serious misdemeanor.

Sec. 13. Section 48.31, subsection 4, Code 1993, is amended to read as follows:

4. The ~~clerk of district court~~ state registrar of voters sends notification of an elector's conviction of a felony, as defined in section 701.7. The clerk of district court shall send notice of a felony conviction to the state registrar of voters. The registrar shall determine in which county the felon is registered to vote, if any. The registration shall be cancelled where the felon is registered, even if it is not in the same county where the conviction was obtained.

Sec. 14. Section 49.5, subsection 3, Code 1993, is amended to read as follows:

3. Cities using any form of city government authorized by law in which some or all members of the city council are elected from wards shall be apportioned into wards on the basis of population. The ward boundaries shall follow the boundaries of election precincts. However, a special charter city with a population of three thousand five hundred or less which is divided into council wards may, for any election, direct the county commissioner of elections to consolidate two or more precincts.

Sec. 15. Section 49.10, subsections 3 and 4, Code 1993, are amended to read as follows:

3. In any city in which precinct lines have been changed to comply with section 49.5, the commissioner may fix the polling place for any precinct outside the boundaries of the precinct if there is no building or facility within the precinct suitable and available for use as a polling

place. In so doing, the commissioner shall fix the polling place at the point nearest the precinct which is suitable and available for use as a polling place and is reasonably accessible to voters of the precinct.

4. No single room or area of any building or facility shall be fixed as the polling place for more than one precinct unless there are separate entrances ~~thereto~~ each clearly marked on the days on which elections are held as the entrance to the polling place of a particular precinct, and suitable arrangements are made within ~~such~~ the room or area to prevent direct access from the polling place of any precinct to the polling place of any other precinct. When the commissioner has fixed such a polling place for any precinct it shall remain the polling place at all subsequent elections, except elections for which the precinct is merged with another precinct as permitted by section 49.11, until the boundaries of the precinct are changed or the commissioner fixes a new polling place, except that the polling place shall be changed to a point within the boundaries of the precinct at any time not less than sixty days before the next succeeding election that a building or facility suitable for such use becomes available within the precinct.

4 5. If two or more contiguous townships have been combined into one election precinct by the board of supervisors, the commissioner shall provide a polling place which is convenient to all of the electors in the precinct.

Sec. 16. Section 49.11, subsection 3, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The city council of a special charter city with a population of three thousand five hundred or less which is divided into council wards, requests the commissioner to consolidate two or more precincts for any election.

Sec. 17. Section 49.53, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The commissioner shall not less than four nor more than twenty days before the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing on the published sample ballot to be less than five thirty-sixths of an inch high in candidates' names or in summaries of public measures. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, the location of the polling places designated as early ballot pick-up sites, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall include the full text of all public measures to be voted upon at the election.

Sec. 18. Section 49.107, subsection 1, Code 1993, is amended to read as follows:

1. Loitering, congregating, electioneering, posting of signs, treating voters, or soliciting votes, during the receiving of the ballots, either on the premises of any polling place or within three hundred feet of any outside door of any building affording access to any room where the polls are held, or of any outside door of any building affording access to any hallway, corridor, stairway, or other means of reaching the room where the polls are held~~, except this~~. This subsection shall not apply to the posting of signs on private property not a polling place, except that the placement of a sign on a motor vehicle, trailer, or semitrailer, or any attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place, which sign is more than ninety square inches in size, is prohibited.

Sec. 19. Section 49A.8, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Upon completion of the canvass, the secretary of state shall certify to the Iowa Code editor the results of the election.

Sec. 20. Section 50.9, Code 1993, is amended to read as follows:

50.9 RETURN OF BALLOTS NOT VOTED.

Ballots not voted, or spoiled by voters while attempting to vote, shall be returned by the precinct election officials to the commissioner, and a receipt taken ~~therefor, and they~~ for the ballots. The ballots shall be preserved for twenty-two months following elections for federal offices and for six months following elections for all other offices.

Sec. 21. Section 50.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The tally list shall be prepared in writing by the election board, giving, in legibly printed numerals, the total number of people who cast ballots in the precinct, the ~~whole~~ total number of ballots cast for each officer, except those rejected, the name of each person voted for, and the number of votes given to each person for each different office; ~~which~~. The tally list shall be signed by the precinct election officials, and be substantially as follows:

Sec. 22. Section 50.24, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The board shall also prepare a certificate showing the total number of people who cast ballots in the election. For general elections and elections held pursuant to section 69.14, a copy of the certificate shall be forwarded to the state commissioner.

Sec. 23. Section 50.33, Code 1993, is amended to read as follows:

50.33 FORWARDING OF ENVELOPES.

~~Said~~ The envelopes, including the one addressed to the speaker, after being prepared, sealed, and endorsed as ~~aforesaid~~ required by this chapter, shall be placed in one package and forwarded to the state commissioner.

Sec. 24. Section 50.48, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Immediately upon receipt of a request for a recount, the commissioner shall send a copy of the request to the apparent winner by certified mail. The commissioner shall also attempt to contact the apparent winner by telephone. If the apparent winner cannot be reached within four days, the chairperson of the political party or organization which nominated the apparent winner shall be contacted and shall act on behalf of the apparent winner, if necessary. For candidates for state or federal offices, the chairperson of the state party shall be contacted. For candidates for county offices, the county chairperson of the party shall be contacted.

Sec. 25. Section 50.48, subsection 4, Code 1993, is amended to read as follows:

4. When all members of the recount board have been selected, the board shall undertake and complete the required recount as expeditiously as reasonably possible. The commissioner or the commissioner's designee shall supervise the handling of ballots or voting machine documents to ensure that the ballots and other documents are protected from alteration or damage. The board shall open only the sealed ballot containers from the precincts specified in the request to be recounted. The board shall recount only the ballots which were voted and counted for the office in question. If an electronic tabulating system was used to count the ballots, the recount board may request the commissioner to retabulate the ballots using the electronic tabulating system. Any member of the recount board may at any time during the recount proceedings extend the recount of votes cast for the office or nomination in question to any other precinct or precincts in the same county, or from which the returns were reported to the commissioner responsible for conducting the election, without the necessity of posting additional bond.

The ballots or voting machine documents shall be resealed by the recount board before adjournment and shall be preserved as required by section 50.12. At the conclusion of the recount, the recount board shall make and file with the commissioner a written report of its findings, which shall be signed by at least two members of the recount board. The recount board shall complete the recount and file its report not later than the eighteenth day following the county board's canvass of the election in question.

Sec. 26. Section 52.23, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The inspection sheets from each machine used in the election and one copy of the printed results from each machine shall be signed by all precinct election officials and, with any paper or papers upon which write-in votes were recorded by voters, shall be securely sealed in an envelope marked with the name and date of the election, the precinct, and the serial numbers of the machines from which the enclosed results were removed. This envelope shall be preserved, unopened, for twenty-two months following elections for federal offices and for six months following elections for all other offices unless a recount is requested pursuant to section 50.48 or an election contest is pending. The envelope shall be destroyed in the same manner as ballots pursuant to section 50.13. Additional copies of the results, if any, shall be delivered to the commissioner with the other supplies from the election pursuant to section 50.17.

Sec. 27. Section 52.32, subsection 2, Code 1993, is amended to read as follows:

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 at the counting center with the ~~election register as required by section 50.17~~ ballot container and shall accompany the ballots through the counting process.

Sec. 28. Section 52.36, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The commissioner shall appoint from the lists provided by the county political party chairpersons a resolution board to tabulate write-in votes and to decide questions regarding damaged, defective, or other ballots which cannot be tabulated by machine. The commissioner shall appoint as many people to the resolution board as the commissioner believes are necessary. The resolution board shall be divided into three-person teams. Each team shall consist of no more than two people who are members of the same political party.

Sec. 29. Section 52.37, subsection 2, Code 1993, is amended to read as follows:

2. After the record required by subsection 1 has been made, the ballot container shall be opened. If any ballot is found damaged or defective, so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate shall be made ~~in the presence of witnesses~~ by the resolution board team and substituted for the damaged or defective ballot, or, as an alternative, the valid votes on a defective ballot may be manually counted at the counting center by ~~at least two employees of the commissioner~~ the resolution board, whichever method is best suited to the system being used. All duplicate ballots shall be clearly labeled as such, and shall bear a serial number which shall also be recorded on the damaged or defective ballot.

The resolution board shall also tabulate any write-in votes which were cast. Write-in votes cast for a candidate whose name appears on the ballot for the same office shall be counted as a vote for the candidate indicated, if the vote is otherwise properly cast. Ballots which are rejected by the tabulating equipment as blank because they have been marked with an unreadable marker shall be duplicated or tabulated as required by this subsection for damaged or defective ballots.

Sec. 30. NEW SECTION. 52.40 EARLY PICK-UP SITES ESTABLISHED — PROCEDURE.

1. In counties where counting centers have been established under section 52.34, the commissioner may, for general elections only, designate certain polling places as early ballot pick-up sites. At these sites, between the hours of one p.m. and four p.m. on the day of the election, early pick-up officers shall receive the sealed ballot container containing the ballots which have been voted throughout the day along with a signed statement of the precinct attesting to the number of declarations of eligibility signed up to that time, excluding those declarations signed by voters who have not yet placed their ballots in the ballot container. The officers shall replace the ballot container containing the voted ballots with an empty ballot container, to be sealed in the presence of a precinct election official.

2. Early pick-up officers shall be appointed in two-person teams, one from each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel drawn up as provided by section 49.15. The early pick-up officers shall be sworn in the manner provided by section 49.75 for election board members, and shall receive compensation as provided in section 49.20.

3. Each two-person team of early pick-up officers 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. If persons designated as early pick-up officers fail to appear at the time the duties set forth in this section are to be performed, the commissioner shall at once appoint some other person or persons, giving preference to persons designated by the respective county chairpersons of the political parties described in section 49.13, to carry out the requirements of this section.

4. The tabulation of ballots received from early pick-up sites shall be conducted at the counting center during the hours the polls are open, in the manner provided in sections 52.36 and 52.37, except that the room in which the ballots are being counted shall not be open to the public during the hours in which the polls are open and the room shall be policed so as to prevent any person other than those whose presence is authorized by this section and sections 52.36 and 52.37 from obtaining information about the progress of the count. The only persons who may be admitted to that room, as long as admission does not impede the progress of the count, are the members of the board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45, and the commissioner or the commissioner's designee. No compilation of vote subtotals shall be made while the polls are open. Any person who makes a compilation of vote subtotals before the polls are closed commits a simple misdemeanor. It shall be unlawful for any person to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time before the polls are closed.

Sec. 31. Section 53.1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who has been designated to have power of attorney by a qualified elector does not have authority to request or to cast an absentee ballot on behalf of the qualified elector.

Sec. 32. Section 53.11, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Satellite absentee voting stations shall be established throughout the cities and county at the direction of the commissioner or upon receipt of a petition signed by not less than one hundred eligible electors requesting that a satellite absentee voting station be established at a location to be described on the petition. A petition requesting a satellite absentee voting station must be filed no later than five p.m. on the eleventh day before the election. A satellite absentee voting station established by petition must be open at least one day from eight a.m. until 5 p.m. A satellite absentee voting station established at the direction of the commissioner or by petition may remain open until five p.m. on the day before the election.

Sec. 33. Section 53.21, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A voter who spoils an absentee ballot may return it to the commissioner. The outside of the return envelope shall be marked "SPOILED BALLOT". The commissioner shall replace the ballot in the manner provided in this section for lost ballots.

NEW UNNUMBERED PARAGRAPH. An absentee ballot returned to the commissioner without a designation that the ballot was spoiled shall not be replaced.

Sec. 34. Section 53.22, subsection 1, paragraph a, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If materials are prepared for the two special precinct election officials, a list shall be made of all electors to whom ballots are to be delivered. The list shall be sent with the officials who deliver the ballots and shall include spaces to indicate whether the person was present at the hospital or health care facility when the officials arrived, whether the person requested assistance from the officials, whether the person was assisted by another person of the elector's choice, the time that the ballot was returned to the officials, and any other notes the officials deem necessary.

NEW UNNUMBERED PARAGRAPH. The officials shall also be issued a supply of extra ballots to replace spoiled ballots. Receipts shall be issued in substantially the same form as receipts issued to precinct election officials pursuant to section 49.65. All ballots shall be accounted for and shall be returned to the commissioner. Separate envelopes shall be provided for the return of spoiled ballots and unused ballots.

Sec. 35. Section 53.31, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

53.31 CHALLENGES.

Any person qualified to vote at the election in progress may challenge the qualifications of a person casting an absentee ballot by submitting a written challenge to the commissioner no later than five p.m. on the day before the election. It is the duty of the special precinct officials to challenge the absentee ballot of any person whom the official knows or suspects is not duly qualified. Challenges by members of the special precinct election board or observers present pursuant to section 53.23 may be made at any time before the close of the polls on election day. The challenge shall state the reasons for which the challenge is being submitted and shall be signed by the challenger. When a challenge is received the absentee ballot shall be set aside for consideration by the special precinct election board when it meets as required by section 50.22.

The commissioner shall immediately send a written notice to the elector whose qualifications have been challenged. The notice shall be sent to the address at which the challenged elector is registered to vote. If the ballot was mailed to the challenged elector, the notice shall also be sent to the address to which the ballot was mailed if it is different from the elector's registration address. The notice shall advise the elector of the reason for the challenge, the date and time that the special precinct election board will reconvene to determine challenges, and that the elector has the right to submit written evidence of the elector's qualifications. The notice shall include the telephone number of the commissioner's office. If the commissioner has access to a facsimile machine, the notice shall include the telephone number of the facsimile machine. As far as possible, other procedures for considering special ballots shall be followed.

Sec. 36. NEW SECTION. 53.35A FAILURE TO RETURN BALLOT — PENALTY.

Any person designated by the commissioner, or by the elector casting the absentee ballot, to deliver the sealed envelope containing the absentee ballot, who willfully fails to return the ballot to the commissioner or the commissioner's designee is guilty of a serious misdemeanor.

Sec. 37. Section 59.1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A copy of the statement of notice of contest shall be filed with the secretary of state within five days of service of the notice upon the incumbent. The secretary of state shall notify the presiding officer of the house in which the contest will be tried.

Sec. 38. NEW SECTION. 59.7 NOTICE OF RESULT.

The presiding officer of the house in which the contest was tried shall certify to the secretary of state the results of the contest.

Sec. 39. Section 62.23, Code 1993, is amended to read as follows:

62.23 COMPENSATION.

The judges shall be entitled to receive ~~four~~ one hundred dollars a day for the time occupied by the trial.

Sec. 40. Section 62.24, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

62.24 COSTS.

The contestant and the incumbent are responsible for the expenses of the witnesses called by them, respectively. If the results of the election are upheld by the contest, if the statement is dismissed, or if the prosecution fails, the costs of the contest shall be paid by the contestant. If the court or tribunal trying the contest determines that the contestant won the election, or if the election is set aside, the costs of the contest shall be paid by the county.

Sec. 41. Section 69.2, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 8. The incumbent simultaneously holding more than one elective office at the same level of government. This subsection does not apply to the following offices: county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

NEW SUBSECTION. 9. An incumbent statewide elected official or member of the general assembly simultaneously holding more than one elective office.

Sec. 42. Section 99F.7, subsection 10, paragraph a, Code 1993, is amended to read as follows:

a. A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the qualified ~~voters~~ electors of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat in the county. The proposition shall be submitted at a general election or at a special election called for that purpose. To be submitted at a general election, the petition must be received by the board of supervisors at least ~~sixty~~ five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued. After a referendum has been held, another referendum requested by petition shall not be held for at least two years.

Sec. 43. Section 275.25, subsection 1, Code 1993, is amended to read as follows:

1. If the proposition to establish a new school district carries under the method provided in this chapter, the area education agency administrator with whom the petition was filed shall give written notice of a proposed date for a special election for directors of the newly formed

school district to the commissioner of elections of the county in the district involved in the reorganization which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to sections 39.2, subsections 1 and 2, and 47.6, subsections 1 and 2, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect. The election shall be conducted as provided in section 277.3, and nomination petitions shall be filed pursuant to section 277.4, except as otherwise provided in this subsection. Nomination petitions shall be filed with the secretary of the board of the existing school district in which the candidate resides, signed by not less than ten eligible electors of the newly formed district, and filed not less than ~~thirty~~ twenty-eight days ~~prior to~~ before the date set for the special school election. The school secretary, or the secretary's designee, shall be present in the secretary's office until 5 p.m. on the final day to file the nomination papers. The nomination papers shall be delivered to the commissioner no later than 5 p.m. on the twenty-seventh day before the election.

If the special election is held in conjunction with the regular school election, the filing deadlines for the regular school election apply.

Sec. 44. Section 275.36, Code 1993, is amended to read as follows:

275.36 SUBMISSION OF CHANGE TO ELECTORS.

If a petition for a change in the number of directors or in the method of election of school directors, describing the boundaries of the proposed director districts, if any, signed by eligible electors of the school district equal in number to at least thirty percent of those who voted in the last previous annual school election in the school district, but not less than ~~twenty-five~~ one hundred persons, and accompanied by affidavit as required by section 275.13 be filed with the school board of a school district, not earlier than six months and not later than ~~two months~~ sixty-seven days before a regular or special school election, the school board shall submit such proposition to the voters at ~~such~~ the election. If a proposition for a change in the number of directors or in the method of election of school directors submitted to the voters under this section is rejected, it shall not be resubmitted to the voters of the district in substantially the same form within the next three years; if it is approved, no other proposal may be submitted to the voters of the district under this section within the next six years.

Sec. 45. Section 277.4, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Each candidate shall be nominated by ~~a~~ petition. If the candidate is running for an at large seat in the district, the petition must be signed by eligible electors equal in number to not less than ~~ten eligible~~ one percent of the qualified electors of the district or one hundred eligible electors of the district, whichever is less. If the candidate is running for a seat in a director district, the petition must be signed by eligible electors equal in number to not less than one percent of the qualified electors in the director district or one hundred eligible electors in the district, whichever is less. Signers of nomination petitions shall include their addresses and the date of signing, and must reside in the same director district as the candidate if directors are elected by the voters of a director district, rather than at large. A person may sign nomination petitions for more than one candidate for the same office, and the signature is not invalid solely because the person signed nomination petitions for one or more other candidates for the office. The petition shall be filed with the affidavit of the candidate being nominated, stating the candidate's name, place of residence, that such person is a candidate and is eligible for the office the candidate seeks, and that if elected the candidate will qualify for the office.

Sec. 46. Section 331.206, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A plan selected by the board shall become effective on the first day in January which is not a Sunday or holiday following the next general election, at which time the terms of the members expire and the terms of the members elected under the requirements of the new supervisor representation plan at the general election as specified in section 331.208, 331.209, or 331.210 shall commence.

Sec. 47. Section 331.323, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

If a petition of electors equal in number to twenty-five percent of the votes cast for the county office receiving the greatest number of votes at the preceding general election is filed with the auditor no later than five working days before the filing deadline for candidates for county offices as specified in section 44.4 for the next general election, the board shall direct the commissioner of elections to call an election for the purpose of voting on the proposal. If the petition contains more than one proposal for combining duties, each proposal shall be listed on the ballot as a separate issue. If the majority of the votes cast is in favor of a proposal, the board shall take all steps necessary to combine the duties as specified in the petition.

Sec. 48. Section 362.3, subsection 2, Code 1993, is amended to read as follows:

2. A publication required by the city code must be in a newspaper published at least once weekly and having general circulation in the city. However, if the city has a population of two hundred or less, or in the case of notices of elections, ordinances, and amendments to be published in a city in which no newspaper is published, a publication may be made by posting in three public places in the city which have been permanently designated by ordinance.

Sec. 49. Section 364.2, subsection 4, paragraph b, Code 1993, is amended to read as follows:

b. No such ordinance shall become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose ~~prior to~~ before the next regular city election. If a majority of those voting approves the proposal the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot, if paper ballots are used. If an electronic voting system or voting machine is used, the proposal shall be stated on the ballot and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance.

Sec. 50. Section 422B.1, subsection 6, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Costs of local option tax elections shall be apportioned among jurisdictions within the county voting on the question at the same election on a pro rata basis in proportion to the number of qualified electors in each taxing jurisdiction and the total number of qualified electors in all of the taxing jurisdictions.

Sec. 51. INAPPLICABILITY OF OTHER LEGISLATION. The provisions of House File 234, if enacted by the Seventy-fifth Session of the General Assembly, shall not apply to this Act.

Sec. 52. EFFECTIVE DATE. Section 44 of this Act is effective January 1, 1994.

Approved May 19, 1993

CHAPTER 144

INCOME TAX CHECKOFFS – IOWA STATE FAIR FOUNDATION – OLYMPICS

H.F. 660

AN ACT relating to income tax return checkoffs for purposes of state individual income tax and establishing an income tax checkoff to support the Iowa state fair foundation and providing for the Act's retroactive applicability and contingent effectiveness.

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

Section 1. Section 173.22, unnumbered paragraphs 1 and 2, Code 1993, are amended to read as follows:

An Iowa state fair foundation is established under the authority of the Iowa state fair board. A foundation fund is created within the state treasury composed of moneys appropriated or available to and obtained or accepted by the foundation. The foundation fund shall include moneys credited to the fund as provided in section 422.12D. The

~~The~~ foundation may solicit or accept gifts, including donations and bequests. A gift, to the greatest extent possible, shall be used according to the expressed desires of the person providing the gift.

PARAGRAPH DIVIDED. Assets of the foundation shall be used to support foundation activities, including foundation administration, or capital projects or major maintenance improvements at the Iowa state fairgrounds or to property under the control of the board. Foundation moneys may be expended on a matching basis with public moneys ~~appropriated from the general fund of the state~~ or ~~expended on a matching basis by the board from~~ Iowa state fair authority receipts. All interest earned on moneys in the foundation fund or through other foundation assets shall be credited to and remain in the fund. Section 8.33 does not apply to moneys in the fund.

Sec. 2. Section 422.12A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The income tax return checkoff provided in this section is repealed for tax years beginning on or after January 1, 1994.

Sec. 3. NEW SECTION. 422.12D INCOME TAX CHECKOFF FOR THE IOWA STATE FAIR FOUNDATION.

1. A person who files an individual or a joint income tax return with the department of revenue and finance under section 422.13 may designate one dollar or more to be paid to the Iowa state fair foundation as established in section 173.22. If the refund due on the return or the payment remitted with the return is insufficient to pay the amount designated by the taxpayer to the Iowa state fair foundation, the amount designated shall be reduced to the remaining amount of the refund or the remaining amount remitted with the return. The designation of a contribution to the Iowa state fair foundation under this section is irrevocable.

2. The director of revenue and finance shall draft the income tax form to allow the designation of contributions to the Iowa state fair foundation on the tax return. The department, on or before January 31, shall transfer the total amount designated on the tax form due in the preceding year to the foundation fund created pursuant to section 173.22.

3. The Iowa state fair board may authorize payment from the foundation fund for purposes of supporting foundation activities.

4. The department shall adopt rules to implement this section. However, before a checkoff pursuant to this section shall be permitted, all liabilities on the books of the department of revenue and finance and accounts identified as owing under section 421.17 and the political contribution allowed under section 56.18 shall be satisfied.

Sec. 4. NEW SECTION. 422.12E INCOME TAX RETURN CHECKOFFS LIMITED.

For tax years beginning on or after January 1, 1995, there shall be allowed no more than three income tax return checkoffs on each income tax return. When the same three income

tax return checkoffs have been provided on the income tax return for three consecutive years, the checkoff for which the least amount has been contributed, in the aggregate for the first two tax years and through March 15 of the third tax year, shall be repealed. This section does not apply to the income tax return checkoff provided in section 56.18.

Sec. 5. RETROACTIVE APPLICABILITY. Section 3 of this Act, enacting section 422.12D, applies retroactively to January 1, 1993, for tax years beginning on or after that date.

Sec. 6. CONTINGENT EFFECTIVENESS. This Act is effective only if legislation providing an annual standing appropriation of $15,000 or more to Iowa Special Olympics, Incorporated, for Special Olympic programs, is enacted by the Seventy-fifth General Assembly during the 1993 Regular Session.

Approved May 19, 1993

CHAPTER 145

PROPERTY TAX LIMITATION

H.F. 663

AN ACT relating to an increase in property tax dollars certified for purposes of the property tax limitation for the fiscal year beginning July 1, 1994.

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

Section 1. Section 444.25, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The maximum amount of property tax dollars which may be certified by a county for taxes payable in the fiscal year beginning July 1, 1993, shall not exceed the amount of property tax dollars certified by the county for taxes payable in the fiscal year beginning July 1, 1992, and, except as otherwise provided in section 444.28, the maximum amount of property tax dollars which may be certified by a county for taxes payable in the fiscal year beginning July 1, 1994, shall not exceed the amount of property tax dollars certified by the county for taxes payable in the fiscal year beginning July 1, 1993, for each of the levies for the following, except for the levies on the increase in taxable valuation due to new construction, additions or improvements to existing structures, remodeling of existing structures for which a building permit is required, annexation, and phasing out of tax exemptions, and on the increase in valuation of taxable property as a result of a comprehensive revaluation by a private appraiser under a contract entered into prior to January 1, 1992, or as a result of a comprehensive revaluation directed or authorized by the conference board prior to January 1, 1992, with documentation of the contract, authorization, or directive on the revaluation provided to the director of revenue and finance, if the levies are equal to or less than the levies for the previous year, levies on that portion of the taxable property located in an urban renewal project the tax revenues from which are no longer divided as provided in section 403.19, subsection 2, or as otherwise provided in this section:

Sec. 2. Section 444.25, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The maximum amount in property tax dollars which may be certified by a city for taxes payable in the fiscal year beginning July 1, 1993, shall not exceed the amount in property tax dollars certified by the city for taxes payable in the fiscal year beginning July 1, 1992, and, except as otherwise provided in section 444.28, the maximum amount of property tax dollars which may be certified by a city for taxes payable in the fiscal year beginning July 1, 1994,

shall not exceed the amount of property tax dollars certified by the city for taxes payable in the fiscal year beginning July 1, 1993, for each of the levies for the following, except for the levies on the increase in taxable valuation due to new construction, additions or improvements to existing structures, remodeling of existing structures for which a building permit is required, annexation, and phasing out of tax exemptions, and on the increase in valuation of taxable property as a result of a comprehensive revaluation by a private appraiser under a contract entered into prior to January 1, 1992, or as a result of a comprehensive revaluation directed or authorized by the conference board prior to January 1, 1992, with documentation of the contract, authorization, or directive on the revaluation provided to the director of revenue and finance, if the levies are equal to or less than the levies for the previous year, levies on that portion of the taxable property located in an urban renewal project the tax revenues from which are no longer divided as provided in section 403.19, subsection 2, or as otherwise provided in this section:

Sec. 3. Section 444.25, subsection 3, paragraph d, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Unusual need for additional moneys to finance existing programs which would provide substantial benefit to city or county residents or compelling need to finance new programs which would provide substantial benefit to city or county residents. The increase in taxes levied under this exception for the fiscal year beginning July 1, 1993, is limited to no more than the product of the total tax dollars levied in the fiscal year beginning July 1, 1992, and the percent change in the price index for government purchases by type for state and local governments computed for calendar year 1992.

PARAGRAPH DIVIDED. The increase in taxes levied under this exception for the fiscal year beginning July 1, 1994, is limited to no more than the sum of the following:

(1) The product of the total tax dollars levied in the fiscal year beginning July 1, 1993, and ~~the~~ seventeen-hundredths of one percent.

(2) The percent change in the price index for government purchases by type for state and local governments computed for calendar year 1993 times the sum of the total tax dollars levied in the fiscal year beginning July 1, 1993, plus the amount in subparagraph (1).

PARAGRAPH DIVIDED. ~~The~~ For purposes of this paragraph, the price index for government purchases by type for state and local governments is defined by the bureau of economic analysis of the United States department of commerce and published in table 7.11 of the national income and products accounts. For purposes of this paragraph, tax dollars levied in the fiscal years beginning July 1, 1992, and July 1, 1993, shall not include funds levied for paragraphs "a", "b", and "c" of this subsection.

Sec. 4. NEW SECTION. 444.28 PROPERTY TAX LIMITATION FOR 1995 FISCAL YEAR – EXCEPTION.

For those cities and counties which applied for an exception under section 444.25, subsection 3, paragraph "d", for the fiscal year beginning July 1, 1993, but did not apply for that exception for the fiscal year beginning July 1, 1994, the maximum amount of property tax dollars which may be certified by the city or county for taxes payable in the fiscal year beginning July 1, 1994, shall not exceed the sum of the following:

(1) The product of the amount of property tax dollars certified for taxes payable in the fiscal year beginning July 1, 1993, and seventeen-hundreths of one percent.

(2) The product of the amount of property tax dollars certified for taxes payable in the fiscal year beginning July 1, 1993, and seventeen-hundreths of one percent plus the amount of property tax dollars certified for taxes payable in the fiscal year beginning July 1, 1993.

Approved May 19, 1993

CHAPTER 146

AGRICULTURAL AREAS

S.F. 11

AN ACT relating to agricultural areas.

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

Section 1. Section 352.2, subsection 6, Code 1993, is amended to read as follows:

6. "Farm operation" means a condition or activity which occurs on a farm in connection with the production of farm products and includes but is not limited to the raising, harvesting, drying, or storage of crops; the care or feeding of livestock; the handling or transportation of crops or livestock; the treatment or disposal of wastes resulting from livestock; the marketing of products at roadside stands or farm markets~~,~~; the creation of noise, odor, dust, or fumes~~,~~; the operation of machinery and irrigation pumps~~,~~; ground and aerial seeding and spraying~~,~~; the application of chemical fertilizers, conditioners, insecticides, pesticides, and herbicides~~,~~; and the employment and use of labor.

Sec. 2. Section 352.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Livestock" means the same as defined in section 267.1.

Sec. 3. Section 352.6, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An owner of farmland may submit a proposal to the county board for the creation or expansion of an agricultural area within the county. An agricultural area, at its creation, shall include at least ~~five~~ three hundred acres of farmland, however, a smaller area may be created if the farmland is adjacent to farmland subject to an agricultural land preservation ordinance pursuant to section 335.27 or adjacent to land located within an existing agricultural area. The proposal shall include a description of the proposed area to be created or expanded, including its boundaries. The territory shall be as compact and as nearly adjacent as feasible. Land shall not be included in an agricultural area without the consent of the owner. Agricultural areas shall not exist within the corporate limits of ~~the~~ a city. The county board may consult with the department of natural resources when creating or expanding an agricultural area contiguous to a location which is under the direct supervision of the department, including a state park, state preserve, state recreation area, or sovereign lake. Agricultural areas may be created in a county which has adopted zoning ordinances. Except as provided in this section, the use of the land in agricultural areas is limited to farm operations.

Sec. 4. Section 352.7, subsection 1, Code 1993, is amended to read as follows:

1. Within thirty days of receipt of a proposal ~~for~~ to create or expand an agricultural area which meets the statutory requirements, the county board shall provide notice of the proposal by publishing notice in a newspaper of general circulation in the county. Within forty-five days after receipt of the proposal, the county board shall hold a public hearing on the proposal.

Sec. 5. Section 352.8, Code 1993, is amended to read as follows:

352.8 REQUIREMENT THAT DESCRIPTION OF AGRICULTURAL AREAS BE FILED WITH THE COUNTY ~~AUDITOR AND COUNTY RECORDER~~.

Upon the creation or expansion of an agricultural area, its description shall be filed by the county board with the county auditor and placed on record ~~in~~ with the ~~office of the~~ recording officer in the county ~~recorder~~.

Sec. 6. Section 352.9, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The board shall cause the description of that agricultural area filed with the county auditor and ~~recorded with~~ recording officer in the county ~~recorder~~ to be modified to reflect any withdrawal. Withdrawal shall be effective on the date of recording. The agricultural area from which the land is withdrawn shall continue in existence even if smaller than ~~five~~ three hundred acres after withdrawal.

Sec. 7. Section 352.11, subsection 1, Code 1993, is amended to read as follows:

1. NUISANCE RESTRICTION.

a. A farm or farm operation located in an agricultural area shall not be found to be a nuisance regardless of the established date of operation or expansion of the agricultural activities of the farm or farm operation. ~~The subsection~~ This paragraph shall apply to a farm operation conducted within an agricultural area for six years following the exclusion of land within an agricultural area other than by withdrawal as provided in section 352.9.

b. Paragraph "a" does not apply to a nuisance which is the result of a farm operation determined to be in violation of a federal statute or regulation or state statute or rule. Paragraph "a" does not apply if the nuisance results from the negligent operation of the farm or farm operation. ~~This subsection~~ Paragraph "a" does not apply to actions or proceedings arising from injury or damage to a person or property caused by the farm or a farm operation before the creation of the agricultural area. ~~This subsection~~ Paragraph "a" does not affect or defeat the right of a person to recover damages for an injury or damage sustained by the person because of the pollution or change in condition of the waters of a stream, the overflowing of the person's land, or excessive soil erosion onto another person's land, unless the injury or damage is caused by an act of God.

c. A person shall not bring an action or proceeding based on a claim of nuisance arising from a farm operation unless the person proceeds with mediation as provided in chapter 654B.

d. If a defendant is a prevailing party in an action or proceeding based on a claim of nuisance and arising from a farm operation conducted on farmland within an agricultural area, the plaintiff shall pay court costs and reasonable attorney fees incurred by the defendant, if the court determines that the claim is frivolous.

Approved May 20, 1993

CHAPTER 147

CITY CIVIL SERVICE

S.F. 163

AN ACT relating to abolition of certain civil service commissions, use of electronic voice recording devices at civil service meetings, and relating to qualifications and requirements for appointment, promotion, or employment in positions governed by civil service.

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

Section 1. Section 400.5, Code 1993, is amended to read as follows:

400.5 ROOMS AND SUPPLIES.

The council shall provide suitable rooms in which the commission may hold its meetings and supply the commission with all necessary equipment and a qualified shorthand reporter or an electronic voice recording device to enable it to properly ~~to~~ perform its duties.

Sec. 2. Section 400.8, subsection 1, Code 1993, is amended to read as follows:

1. The commission, when necessary under the rules, including minimum and maximum age limits, which shall be prescribed and published in advance by the commission and posted in the city hall, shall hold examinations for the purpose of determining the qualifications of applicants for positions under civil service, other than promotions, which examinations shall be practical in character and shall relate to matters which will fairly test the mental and physical ability of the applicant to discharge the duties of the position to which the applicant seeks appointment. ~~However, the~~ The physical examination of applicants for appointment to the positions of police officer, police matron, or fire fighter shall be held ~~under the direction of and~~

~~as specified~~ in accordance with medical protocols established by the ~~boards~~ board of trustees of the fire or police retirement ~~systems~~ system established by section 411.5 ~~and the~~. The commission ~~may~~ shall conduct a medical examination of an applicant for the position of police officer, police matron, or fire fighter after a conditional offer of employment has been made to the applicant. An applicant shall not be discriminated against on the basis of height, weight, sex, or race in determining physical or mental ability of the applicant. Reasonable rules relating to strength, agility, and general health of applicants shall be prescribed. The costs of the physical examination required under this subsection shall be paid from the trust and agency fund of the city.

Sec. 3. Section 400.11, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~In cities of fifty thousand or more population, the~~ The commission ~~shall~~ may hold in reserve ~~a second list,~~ for original appointments and for promotions, additional lists of ~~the~~ ten persons each next highest in standing, in order of their grade, or such number as may qualify ~~and, thereafter,~~ if less than ten. If the list of ten persons provided in the first paragraph ~~hereof be~~ is exhausted within one year, the commission may certify such ~~second list~~ additional lists of ten persons each, in order of their standing, to the council as eligible for appointment to fill such vacancies as may exist. However, for original appointments only, no more than four lists of ten persons each shall be certified for each one-year period of eligibility.

Sec. 4. Section 400.17, unnumbered paragraph 1, and subsections 1 through 3, Code 1993, are amended to read as follows:

Except as otherwise provided in section 400.7, a person shall not be appointed, promoted, or employed in any capacity, including a new classification, in the fire or police department, or any department which is governed by the civil service, until the person has passed a civil service examination as provided in this chapter, and has been certified to the city council as being eligible for the appointment. However, in an emergency in which the peace and order of the city is threatened by reason of fire, flood, storm, or mob violence, making additional protection of life and property necessary, the person having the appointing power may deputize additional persons, without examination, to act as peace officers until the emergency has passed. A person may be appointed to a position subject to successfully completing a civil service medical examination. A person shall not be appointed or employed in any capacity in the fire or police department~~, or any department which is governed by civil service, unless the person:~~

~~1. Is of good moral character.~~

~~2. Is able to read and write the English language.~~

~~3. Is not a liquor or drug addict~~ if the person is unable to meet reasonable physical condition training requirements and reasonable level of experience requirements necessary for the performance of the position; if the person is a habitual criminal; if the person is addicted to narcotics or alcohol and has not been rehabilitated for a period of one year or more, or is not presently undergoing treatment; or if the person has attempted a deception or fraud in connection with a civil service examination.

Sec. 5. Section 400.17, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Except as otherwise provided in this section and section 400.7, a person shall not be appointed or employed in any capacity in any department which is governed by civil service if the person is unable to meet reasonable physical condition training requirements and reasonable level of experience requirements necessary for the performance of the position; if the person is addicted to narcotics or alcohol and has not been rehabilitated for a period of one year or more, or is not presently undergoing treatment; or if the person has attempted a deception or fraud in connection with a civil service examination.

Sec. 6. TRANSITION. Notwithstanding section 4* of this Act, if a list for promotion is certified between July 1, 1992, and June 30, 1993, and is not exhausted within one year, the

*Section 3 probably intended

commission shall certify an additional list of ten persons in order of their standing as of the date of certification of the initial list in anticipation of additional vacancies for the eligibility period. This additional list shall be certified to the council as eligible for appointment to fill such vacancies as may exist.

Approved May 20, 1993

CHAPTER 148

DUTIES OF COUNTY RECORDER AND AUDITOR
S.F. 165

AN ACT relating to the duties of the county recorder and auditor.

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

Section 1. Section 331.502, subsection 49, Code 1993, is amended to read as follows:

49. Carry out other duties required by law and duties assigned pursuant to section 331.323 or 331.610.

Sec. 2. NEW SECTION. 331.610 ABOLITION OF OFFICE — TRANSFER OF DUTIES.

If the office of county recorder is abolished in a county, the duties prescribed by law to the office of recorder relating to the filing or recording of instruments affecting real estate shall be performed by the county auditor.

Approved May 20, 1993

CHAPTER 149

OPEN ENROLLMENT PROCEDURES AND REPORTS
S.F. 205

AN ACT relating to open enrollment procedures and reports.

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

Section 1. Section 282.18, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 2. 1989 Iowa Acts, chapter 12, section 2, is amended to read as follows:

SEC. 2. THREE-YEAR REPORT ON OPEN ENROLLMENT. The department of education shall conduct a three-year study of the implementation of open enrollment in the state. The study shall include, but not be limited to, ~~a comparison of graduation rates before and after the effective date of this Act;~~ a demographic study of the use of the open enrollment option relating to the number of students using the open enrollment option, ~~the effect of open enrollment on staffing patterns and curricular offerings,~~ the effect of open enrollment on district ability to comply with desegregation orders or plans and minimum school standards, and the effect of open enrollment on the actual student populations within affected districts; and the effect of open enrollment on student participation in interscholastic athletics~~; and the average number of school days missed by open enrollment participants~~. The data collected, together with any conclusions, shall be submitted in annual reports to the general assembly until and including the general assembly which meets in 1993.

Approved May 20, 1993

CHAPTER 150

FAMILY RESOURCE CENTER DEMONSTRATION PROGRAM

S.F. 387

AN ACT relating to the family resource center demonstration program.

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

Section 1. Section 256C.1, Code 1993, is amended to read as follows:

256C.1 FAMILY RESOURCE CENTER DEMONSTRATION PROGRAM ESTABLISHED.

~~The~~ If the general assembly appropriates moneys for the establishment of family resource centers, 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~~ 1994, which shall be located in at least three public schools, one located in a large school district, one located in a medium-sized school district, and one located 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. 2. Section 256C.2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The child development coordinating council shall develop a four-year grant program and 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 256C.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. Criteria for the selection shall also include a requirement that the program administrator, whose primary responsibility is to administer the family resource center, have at least two years of experience in early childhood education or development, demonstrated skills in community development, and a master's degree in a related field such as community service, health, human services, child development, parent support, or home economics, or at least five years of experience as an administrator of a licensed early childhood education or development program. Critical social welfare needs that may entitle a grant application to priority, if the application ~~including~~ includes 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.~~

Sec. 3. Section 256C.2, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. A district applying for a grant under this section shall agree, for each dollar of grant funds, to provide twenty cents in matching cash or in-kind

resources. Grants may be awarded for four years, beginning July 1, 1994, and ending June 30, 1998. Up to ten percent of the moneys appropriated for the grant program may be used by the council for staffing, technical assistance, and external evaluation development. Notwithstanding section 8.33, unencumbered or unobligated funds remaining on June 30 of the fiscal year for which the funds were appropriated shall not revert but shall be available for expenditure for the following fiscal year for the purposes of this section.

Sec. 4. Section 256C.3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Each family resource center shall ~~provide~~ address all of the following, and by July 1, 1997, shall offer all of the following:

Sec. 5. Section 256C.3, subsection 5, Code 1993, is amended to read as follows:

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, and other programs as the community determines, for adolescents emphasizing responsible decision making and communication skills.

Sec. 6. Section 256C.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. Coordinated health and nutrition services for young children.

Approved May 20, 1993

CHAPTER 151

COUNTY RECORDER – DOCUMENT MANAGEMENT FEE

S.F. 412

AN ACT relating to a records management fee to be collected by the county recorder.

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

Section 1. NEW SECTION. 331.605A DOCUMENT MANAGEMENT FEE.

The recorder shall also collect a fee of one dollar for each recorded instrument for which a fee is paid pursuant to section 331.604 to be used exclusively for the purpose of preserving and maintaining public records. The recorder shall establish and maintain an interest-bearing account into which all moneys collected pursuant to this paragraph shall be deposited. The recorder shall use the moneys deposited in the account to produce and maintain public records that meet archival standards, and to enhance the technological storage, retrieval, and transmission capabilities related to archival quality records. The recorder may cooperate with other entities, boards, and agencies to establish methods of records management, and participate in other joint ventures which further the purposes of this paragraph.

The fee collected pursuant to this section shall be used to accomplish the following purposes:

1. Preserve and maintain public records.
2. Assist counties in reducing record preservation costs.
3. Encourage and foster maximum access to public records maintained by county recorders at locations throughout the state.
4. Establish plans for anticipated and possible future needs, including the handling and preservation of vital statistics.

Sec. 2. NEW SECTION. 331.605B FEES COLLECTED — AUDIT.

The recorder shall make available any information required by the county or state auditor concerning the fees collected under section 331.605A for the purposes of determining the amount of fees collected and the uses for which such fees are expended.

Sec. 3. LEGISLATIVE INTENT — WORKING GROUP.

1. It is the intent of the general assembly that maximum access to public records maintained by county recorders at locations throughout the state be fostered. A working group shall be established to develop policies and procedures to accomplish the purposes established in section 331.605A. The working group shall include at a minimum representatives of all of the following:

a. County recorders.

b. The secretary of state.

c. The state historical society in the department of cultural affairs.

d. Citizen and business interests, including lenders, realtors, abstractors, and attorneys.

2. The representative of the county recorders shall coordinate the work of the group.

3. The secretary of state shall submit a brief written report to the governor and the general assembly regarding the activities of the working group and describing the progress made in accomplishing the purposes established in section 331.605A.

Approved May 20, 1993

CHAPTER 152

ANNEXATION AND OTHER CITY DEVELOPMENT

S.F. 418

AN ACT relating to the annexation of land to cities.

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

Section 1. Section 368.1, subsection 10, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

10. "Island" means land which is not part of a city and which is completely surrounded by the corporate boundaries of one or more cities. However, a part of the boundary of an "island" may be contiguous with a boundary of the state, a river, or similar natural barrier which prevents service access from an adjoining area of land outside the boundaries of a city.

Sec. 2. Section 368.1, subsection 14, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

14. "Urbanized area" means any area of land within two miles of the boundaries of a city.

Sec. 3. Section 368.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Public utility" means a public utility subject to regulation pursuant to chapter 476.

Sec. 4. Section 368.7, Code 1993, is amended to read as follows:

368.7 VOLUNTARY ANNEXATION OF TERRITORY.

1. All of the owners of land in a territory adjoining a city may apply in writing to the council of the adjoining city requesting annexation of the territory. Territory comprising railway right of way or territory comprising not more than twenty percent of the land area may be included in the application without the consent of the ~~railway~~ owner to avoid creating an island or to create more uniform boundaries if a copy of the application is mailed by certified mail

to the owner ~~of the right of way~~ and each affected public utility, at least ten days prior to ~~the filing of the application with the city council~~ any action taken by the city council on the application. The application must contain a legal description and a map of the territory showing its location in relationship to the city. An annexation including territory comprising not more than twenty percent of the land area without consent of the property owners is not complete without approval by four-fifths of the members of the board after a hearing for all affected property owners and the county.

2. An application for annexation of territory not within 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 secretary of state, county board of supervisors, each affected public utility, and the state department of transportation. The city clerk shall also ~~file~~ record a copy of the legal description, map and resolution with the county recorder ~~and secretary of state~~. The secretary of state shall not accept and acknowledge a copy of a legal description, 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 legal description, map and resolution.

3. An application for annexation of territory within 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. 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, each affected public utility, 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 which contains a portion of the territory 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 and recorded copies of applicable portions of the proceedings as required by section 368.20, subsection 2.

4. If one or more applications for a voluntary annexation and one or more petitions for an involuntary annexation or incorporation for a common territory are submitted to the board within thirty days of the date the first application or petition was submitted to the board, the board shall approve the application for voluntary annexation, ~~provided that~~ if 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~~ subsection shall be made within ninety days of receipt of the application by the board. The failure of the board to approve an application under this paragraph shall be deemed final agency action subject to judicial review. ~~An applicant may appeal a decision of the board no earlier than one hundred eighty days after the decision is issued or not later than thirty days after a final decision is made by the special local committee under section 368.14A, whichever is earlier.~~

If an application for voluntary annexation is not approved pursuant to this section, the board shall cause the conversion of the application to a petition pursuant to section 368.13 and shall proceed under section 368.14A. The conversion of an application to a petition shall not prejudice the status of the applicant. Judicial review of a board decision under this ~~paragraph and the preceding paragraph shall be limited to review of the testimony and documents presented to the board prior to issuing its decision on the application for voluntary annexation~~ subsection may be requested by an aggrieved party.

Sec. 5. NEW SECTION. 368.7A SECONDARY ROAD ANNEXATION.

1. The board of supervisors of each affected county shall notify the city development board of the existence of that portion of any secondary road which extends to the center line but has not become part of the city by annexation and has a common boundary with a city. The notification shall include a legal description and a map identifying the location of the secondary road. The city development board shall provide notice and an opportunity to be heard to each city in or next to which the secondary road is located. The city development board shall certify that the notification is correct and declare the road, or portion of the road extending to the center line, annexed to the city as of the date of certification. This section is not intended to interfere with or modify existing chapter 28E agreements on jurisdictional transfer of roads, or continuing negotiations between jurisdictions.

2. The remaining title and interest of a county in any secondary road or portion of the road which has been annexed by a city is transferred to the annexing city on the effective date of this Act. The title and interest of a county in any secondary road which is annexed by a city after the effective date of this Act is transferred to the city upon the effective date of the annexation.

Sec. 6. Section 368.8, Code 1993, 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 county board of supervisors, secretary of state, and state department of transportation. The city clerk shall also ~~file~~ record 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. 7. Section 368.10, subsection 1, Code 1993, is amended by striking the subsection.

Sec. 8. Section 368.10, subsection 2, Code 1993, is amended to read as follows:

~~2.~~ The board may establish rules for the performance of its duties and the conduct of proceedings before it. The rules may include establishing filing fees for applications and petitions submitted to the board. The board's rules are subject to chapter 17A, as applicable.

Sec. 9. Section 368.11, unnumbered paragraphs 1, 2, 4, and 5, Code 1993, are amended to read as follows:

A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board by a city council, a county board of supervisors, a regional planning authority, or five percent of the qualified electors of a city or territory involved in the proposal. Notice of the filing, including a copy of the petition, must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed or severed, the council of a city if an incorporation includes territory within the city's urbanized area, and any regional planning authority for the area involved.

Within ninety days of receipt of a petition, the board shall initiate appropriate proceedings or dismiss the petition. The board may combine for consideration petitions or plans which concern the same territory or city or which provide for a boundary adjustment or incorporation affecting common territory. The combined petitions may be submitted for consideration by a special local committee pursuant to section 368.14A.

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~~ whose urbanized area contains a portion of the territory, the board of supervisors of each county ~~within the urbanized area~~ which contains a portion of the territory, the regional planning authority of the territory involved, each affected public utility, 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.

Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each ~~affected~~ county which contains a part of the territory at least five days before the date of the public meeting. The ~~chairperson of the board of supervisors of the county containing the greatest area of the territory proposed to be annexed~~ mayor of the city proposing to annex the territory, or that person's designee, shall serve as chairperson of the public meeting. The ~~auditor of the same county, or the auditor's~~ city clerk of the same city or the city clerk's designee, shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the board by the chairperson of the meeting.

Sec. 10. Section 368.13, Code 1993, is amended to read as follows:

368.13 BOARD MAY INITIATE PROCEEDINGS.

Based on the results of its studies, the board may initiate proceedings for the incorporation, discontinuance, or boundary adjustment of a city. The board may request a city to submit a plan for ~~boundary adjustment,~~ city development or may formulate its own plan for ~~incorporation, discontinuance, or boundary adjustment~~ city development. A plan submitted at the board's initiation must include the same information as a petition and be filed and acted upon in the same manner as a petition. A petition or plan may include any information relevant to the proposal, including but not limited to results of studies and surveys, and arguments.

Sec. 11. Section 368.14A, Code 1993, is amended to read as follows:

368.14A SPECIAL LOCAL COMMITTEES.

When two or more ~~involuntary~~ petitions for city development action or ~~voluntary~~ applications for ~~boundary adjustment~~ voluntary annexation describing common territory are being considered together, the board shall direct the appointment of representatives for each of the petitions to serve on one special committee to consider the petitions. Expense reimbursement and qualifications of these representatives shall be as provided in section 368.14. Three board members and at least one-half of the appointed local representatives are required for a quorum of the special local committee. The manner of appointment of representatives shall be the same as for single petition committees ~~except that if one or more of the territories to be annexed is in more than one county, the board of supervisors of the county containing the greatest area of the territory proposed to be annexed shall appoint one representative~~ as provided in section 368.14. The special committee shall consider the petitions in conformity with the provisions of this chapter, and shall resolve common territory issues between petitioners. The special committee shall conduct a public hearing on the petitions pursuant to section 368.15. If the common territory issue is resolved, the special local committee may approve the resulting compatible petitions by a single vote or separately, in its discretion.

Sec. 12. Section 368.20, subsection 2, Code 1993, is amended to read as follows:

2. File with the secretary of state, the clerk of each city incorporated or involved in a boundary adjustment, and record with the recorder of each county which contains a portion of any city or territory involved, copies of the proceedings including the original petition or plan and any amendments, the order of the board approving the petition or plan, proofs of service and publication of required notices, certification of the election result, and any other material deemed by the board to be of primary importance to the proceedings. Upon proper filing and expiration of time for appeal, the incorporation, discontinuance, or boundary adjustment is complete. However, if an appeal to any of the proceedings is pending, completion does not occur until the appeal is decided, unless a subsequent date is provided in the proposal. The board shall also file with the state department of transportation a copy of the map and legal land description of each completed incorporation or corporate boundary adjustment completed under sections 368.11 through 368.22 or approved annexation within an urbanized area.

Sec. 13. NEW SECTION. 368.23 FEES AND TAXES OF PUBLIC UTILITIES.

Additional or increased fees or taxes, other than ad valorem taxes, imposed on a public utility as a result of an annexation of territory to a city shall become effective sixty days after the effective date of the annexation.

Approved May 20, 1993

CHAPTER 153

CITY UTILITIES — CABLE SYSTEMS

H.F. 400

AN ACT authorizing city utilities to include cable communication or television systems.

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

Section 1. Section 362.2, subsection 6, Code 1993, is amended to read as follows:

6. "City utility" means all or part of a waterworks, gasworks, sanitary sewage system, storm water drainage system, electric light and power plant and system, ~~or~~ heating plant, cable communication or television system, any of which are owned by a city, including all land, easements, rights of way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the utility.

Approved May 20, 1993

CHAPTER 154

MOBILE HOMES AND OTHER PROPERTY – RIGHTS – ABANDONMENT – LEASES
S.F. 398

AN ACT relating to the rights of mobile home, personal property, and real property owners and claimants in actions for abandonment and under a lease agreement.

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

Section 1. Section 103A.9, subsection 4, Code 1993, is amended to read as follows:

4. All factory-built structures, without regard to manufacture date, shall be installed in accordance with the code in the governmental subdivisions which have adopted the state building code or any other building code. However, a governmental subdivision shall not require that a factory-built structure, that was manufactured in accordance with federally mandated standards, be renovated in accordance with the state building code or any other building code which the governmental subdivision has adopted when the factory-built structure is being moved from one lawful location within the state to another unless such required renovation is in conformity with those specifications for the factory-built structure which existed when it was manufactured or the factory-built structure is being rented for occupancy.

Existing factory-built structures not constructed to be in compliance with federally mandated standards may be moved from one established mobile home park to another within the state and shall not be required to be renovated to comply with the state building code or any other building code which the governmental subdivision has adopted unless the factory-built structure is being rented for occupancy or has been declared a public nuisance according to standards generally applied to housing.

Sec. 2. Section 321.47, unnumbered paragraph 1, Code 1993, is amended to read as follows:

In the event of the transfer of ownership of a vehicle by operation of law as upon inheritance, devise or bequest, order in bankruptcy, insolvency, replevin, foreclosure or execution sale, abandoned vehicle sale, or when the engine of a motor vehicle is replaced by another engine, or a vehicle is sold or transferred to satisfy an artisan's lien as provided in chapter 577, a landlord's lien as provided in chapter 570, ~~or~~ a storage lien as provided in chapter 579, a judgment in an action for abandonment of a mobile home as provided in chapter 555B, or repossession is had upon default in performance of the terms of a security agreement, the county treasurer in the transferee's county of residence, upon the surrender of the prior certificate of title or the manufacturer's or importer's certificate, or when that is not possible, upon presentation of satisfactory proof to the county treasurer of ownership and right of possession to the vehicle and upon payment of a fee of ten dollars and the presentation of an application for registration and certificate of title, may issue to the applicant a registration card for the vehicle and a certificate of title to it. The persons entitled under the laws of descent and distribution of an intestate's property to the possession and ownership of a vehicle owned in whole or in part by a decedent, upon filing an affidavit stating the name and date of death of the decedent, the right to possession and ownership of the persons filing the affidavit, and that there has been no administration of the decedent's estate, which instrument shall also contain an agreement to indemnify creditors of the decedent who would be entitled to levy execution upon the motor vehicle to the extent of the value of the motor vehicle, are entitled upon fulfilling the other requirements of this chapter, to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to it. If a decedent dies testate, and either the will is not probated or is admitted to probate without administration, the persons entitled to the possession and ownership of a vehicle owned in whole or in part by the decedent may file an affidavit, and upon fulfilling the other requirements of this chapter, are entitled to the issuance of a registration card for the interest of the decedent in the vehicle and a certificate of title to the vehicle. The affidavit shall contain the same information and indemnity agreement as is required in cases of intestacy pursuant to this section. No requirement of chapter 450 or 451 shall be considered satisfied by the filing of the affidavit provided for

in this section. If, from the records in the office of the county treasurer, there appear to be any liens on the vehicle, the certificate of title shall contain a statement of ~~such~~ the liens unless the application is accompanied by proper evidence of their satisfaction or extinction. Evidence of extinction may consist of, but is not limited to, an affidavit of the applicant stating that a security interest was foreclosed as provided in Uniform Commercial Code, chapter 554, article 9, part 5.

Sec. 3. Section 335.30, Code 1993, is amended to read as follows:

335.30 MANUFACTURED HOME.

A county shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A zoning ordinance or other regulation shall not require a foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the foundation system with surrounding residential structures. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 435.1 is not a manufactured home, unless it has been converted to real property as provided in section 435.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Sec. 4. Section 414.28, Code 1993, is amended to read as follows:

414.28 MANUFACTURED HOME.

A city shall not adopt or enforce zoning regulations or other ordinances which disallow the plans and specifications of a proposed residential structure solely because the proposed structure is a manufactured home. However, a zoning ordinance or regulation shall require that a manufactured home be located and installed according to the same standards, including but not limited to, a foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot. A zoning ordinance or other regulation shall not require a foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the foundation system with surrounding residential structures. As used in this section, "manufactured home" means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home as defined in section 435.1 is not a manufactured home, unless it has been converted to real property as provided in section 435.26, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant.

Sec. 5. Section 535.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. This section does not apply to a charge imposed for late payment of rent. However, in the case of a residential lease, a late payment fee shall not exceed three dollars a day for the first five days the rent is late and one dollar a day for the next twenty-five days.

Sec. 6. Section 555B.1, subsection 1, Code 1993, is amended to read as follows:

1. "Claimant" includes but is not limited to any government subdivision with authority to levy a tax on abandoned personal property.

Sec. 7. Section 555B.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. "Abandoned" means abandoned as provided in section 562B.27, subsection 1.

Sec. 8. Section 555B.2, subsection 1, Code 1993, is amended to read as follows:

1. A real property owner may remove or cause to be removed a mobile home and other personal property which is unlawfully parked, placed, or abandoned on that real property, and may cause the mobile home and personal property to be placed in storage until the owner of the personal property pays a fair and reasonable charge for removal, storage, or other expense incurred, including reasonable attorneys' fees, or until a judgment of abandonment is entered pursuant to section 555B.8 provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435. For purposes of this chapter, a lien other than a tax lien exists only if the real property owner receives notice of a lien on the standardized registration form completed by a tenant pursuant to section 562B.27, subsection 3, or a lien has been filed in state or county records on a date before the mobile home is considered to be abandoned. The real property owner or the real property owner's agent is not liable for damages caused to the mobile home and personal property by the removal or storage unless the damage is caused willfully or by gross negligence.

Sec. 9. Section 555B.2, subsection 2, paragraph a, Code 1993, is amended to read as follows:

a. If the mobile home owner can be determined, and if the real property owner so requests, the sheriff shall notify the mobile home owner of the removal by restricted certified mail. If the mobile home owner cannot be determined, and the real property owner so requests, the sheriff shall give notice by one publication in one newspaper of general circulation in the ~~area~~ county where the mobile home and personal property ~~was~~ were unlawfully parked, placed, or abandoned. If the mobile home and personal property have not been claimed by the owner within six months after notice is given, the mobile home and personal property shall be sold by the sheriff at a public or private sale. After deducting costs of the sale the net proceeds shall be applied to the cost of removal, ~~and~~ storage ~~of the property~~, notice, attorney fees, and any other expenses incurred for preserving the mobile home and personal property, including any rent owed by the mobile home owner to the real property owner in connection with the presence of the mobile home on the real property. The remaining net proceeds, if any, shall be paid to the county treasurer to satisfy any tax lien on the mobile home. The remainder, if any, shall be ~~paid to~~ retained by the county treasurer.

Sec. 10. Section 555B.3, Code 1993, is amended to read as follows:

555B.3 ACTION FOR ABANDONMENT — JURISDICTION.

A real property owner not requesting notification by the sheriff as provided in section 555B.2 may bring an action alleging abandonment in the court within the county where the real property is located provided that there is no lien on the mobile home or personal property other than a tax lien pursuant to chapter 435. The action shall be tried as an equitable action. Unless commenced as a small claim, the petition shall be presented to a district judge. Upon receipt of the petition, either the court or the clerk of the district court shall ~~order~~ set a date for a hearing not later than fourteen days from the date of the ~~order~~ receipt of the petition.

Sec. 11. Section 555B.4, subsection 3, Code 1993, is amended to read as follows:

3. If a tax lien exists on the mobile home or personal property at the time an action for abandonment is initiated, the real property owner shall notify the county treasurer of each county in which a tax lien appears by restricted certified mail sent not less than ten days before the hearing. The notice shall describe the mobile home and shall state the date and time at which the hearing is scheduled, and the county treasurer's right to assert a claim to the mobile home at the hearing. The notice shall also state that failure to assert a claim to the mobile home

is deemed a waiver of all right, title, claim, and interest in the mobile home and is deemed consent to the sale or disposal of the mobile home.

Sec. 12. Section 555B.10, subsection 1, Code 1993, is amended to read as follows:

1. A real property owner who disposes of a mobile home or personal property in accordance with this chapter is not liable for damages by reason of the removal, sale, or disposal of the mobile home and personal property unless the damage is caused willfully or by gross negligence. Upon a motion to the district court and a showing that the real property owner is not proceeding in accordance with this chapter, the court may enjoin the real property owner from proceeding further and a determination for the proper disposition of the mobile home and personal property shall be made. If disposition of the mobile home or personal property has not occurred in accordance with this chapter, the ~~personal property~~ owner thereof has a right to recover from the real property owner, any loss caused by failure to comply with this chapter. The burden of proof shall be upon the mobile home or personal property owner to show that the real property owner has not complied with this chapter in disposing of a mobile home or personal property.

Sec. 13. Section 562A.12, subsection 1, Code 1993, is amended to read as follows:

1. A landlord shall not demand or receive as ~~rental~~ a security deposit ~~and prepaid rent~~ an amount or value in excess of two months' rent.

Sec. 14. Section 562B.13, subsection 1, Code 1993, is amended to read as follows:

1. A landlord shall not demand or receive as ~~rental~~ a security deposit an amount or value in excess of two months' rent.

Sec. 15. Section 562B.25, subsection 1, Code 1993, is amended to read as follows:

1. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. If there is a noncompliance by the tenant with section 562B.18 materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and that the rental agreement will terminate upon a date not less than thirty days after receipt of the notice if the breach is not remedied in fourteen days. However, if the breach is remediable by repair or the payment of damages or otherwise, and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. If substantially the same act or omission, which constituted a prior noncompliance of which notice was given, recurs within six months, the landlord may terminate the rental agreement upon at least fourteen days' written notice specifying the breach and the date of termination of the rental agreement.

Sec. 16. Section 562B.27, subsection 1, Code 1993, is amended to read as follows:

1. A tenant is considered to have abandoned a mobile home when the tenant has been absent from the mobile home without reasonable explanation for thirty days or more during which time there is either a default of rent three days after rent is due, or the rental agreement is terminated pursuant to section 562B.25. A tenant's return to the mobile home does not change its status as abandoned unless the tenant pays to the landlord all costs incurred for the mobile home space, including costs of removal, storage, notice, attorneys' fees, and all rent and utilities due and owing.

Sec. 17. Section 562B.27, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. If there is no lien on the mobile home other than a lien for taxes, the landlord ~~shall~~ may follow the procedure in chapter 555B to dispose of the mobile home.

Sec. 18. Section 631.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The district court sitting in small claims has concurrent jurisdiction of an action for abandonment of a mobile home or personal property pursuant to section 555B.3, if no money judgment in excess of two thousand dollars is sought. If commenced under this chapter, the action is a small claim for the purposes of this chapter.

Sec. 19. Section 631.4, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. If personal service cannot be made upon each defendant, as provided in rule of civil procedure 56.1, the plaintiff may elect to post, after at least three attempts to perfect service upon each defendant, one or more copies of the original notice upon the real property being detained by each defendant at least five days prior to the date set for hearing. In such instances, the plaintiff shall also mail, by certified mail and first class mail, to each defendant, at the place held out by each defendant as the place for receipt of such communications or, in the absence of such designation, at each defendant's last known place of residence, a copy of the original notice at least five days prior to the date set for hearing. Under this paragraph, service shall be deemed complete upon each defendant by the filing with the clerk of the district court of one or more affidavits indicating that a copy of the original notice was both posted and mailed to each defendant as provided in this paragraph.

Sec. 20. Section 631.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. ACTIONS FOR ABANDONMENT OF MOBILE HOMES OR PERSONAL PROPERTY PURSUANT TO CHAPTER 555B.

a. In an action for abandonment of a mobile home or personal property, the clerk shall set a date, time, and place for hearing, and shall cause service to be made as provided in this subsection.

b. Original notice shall be served personally on each defendant as provided in section 555B.4.

Sec. 21. Section 631.5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

This section ~~shall apply~~ applies to all small claims except actions for forcible entry or detention of real property and actions for abandonment of mobile homes or personal property pursuant to chapter 555B.

Sec. 22. Section 648.19, Code 1993, is amended to read as follows:

648.19 NO JOINDER OR COUNTERCLAIM — EXCEPTION.

An action of this kind shall not be brought in connection with any other action, with the exception of a claim for rent or recovery as provided in sections 562A.24, 562A.32, 562B.22, 562B.25, ~~or~~ 562B.27, or 555B.3 nor shall it be made the subject of counterclaim. When joined with an action for rent or recovery as provided in section 555B.3, 562A.24, 562A.32, 562B.22, 562B.25, or 562B.27, notice of hearing as provided in section 648.5 is sufficient.

Approved May 21, 1993

CHAPTER 155

UNDERGROUND STORAGE TANKS

H.F. 644

AN ACT relating to underground storage tanks and providing penalties.

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

Section 1. Section 455G.4, subsection 3, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. The board shall adopt rules relating to appeal procedures which shall require the administrator to deliver notice of appeal to the affected parties within fifteen days of receipt of notice, require that the hearing be held within one hundred eighty days of the filing of the petition unless good cause is shown for the delay, and require that a final decision be issued no later than one hundred twenty days following the close of the hearing. The time restrictions in this paragraph may be waived by mutual agreement of the parties.

Sec. 2. Section 455G.9, subsection 1, paragraph a, subparagraph (3), unnumbered paragraph 1, Code 1993, is amended to read as follows:

Corrective action for an eligible release reported to the department of natural resources on or after January 1, ~~1985~~ 1984, but prior to July 1, 1987. Third-party liability is specifically excluded from remedial account coverage. For a claim for a release for a small business under this subparagraph, the remedial program shall pay in accordance with subsection 4. For all other claims under this subparagraph, the remedial program shall pay the lesser of fifty thousand dollars of the total costs of corrective action for that release or total corrective action costs for that release as determined under subsection 4. For a release to be eligible for coverage under this subparagraph the following conditions must be satisfied:

Sec. 3. Section 455G.9, subsection 1, paragraph g, Code 1993, is amended to read as follows:

g. Corrective action for the costs of a release under all of the following conditions:

(1) The property upon which the tank causing the release was situated was transferred by inheritance, devise, or bequest.

(2) The property upon which the tank causing the release was situated has not been used to store or dispense petroleum since ~~January 1, 1974~~ December 31, 1975.

(3) The person who received the property by inheritance, devise, or bequest was not the owner of the property during the period of time when the release which is the subject of the corrective action occurred.

(4) The release was reported to the board by ~~July 1, 1991~~ October 26, 1991.

Corrective action costs and copayment amounts under this paragraph shall be paid in accordance with subsection 4.

A person requesting benefits under this paragraph may establish that the conditions of subparagraphs (1), (2), and (3) are met through the use of supporting documents, including a personal affidavit.

Sec. 4. Section 455G.9, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. Notwithstanding section 455G.1, subsection 2, corrective action, for a release which was tested prior to October 26, 1990, and for which the site was issued a no further action letter by the department of natural resources and which was later determined, due to sale of the property or removal of a nonoperating tank, to require remediation which was reported to the administrator by October 26, 1992, in an amount as specified in subsection 4. In order to qualify for benefits under this paragraph, the applicant must not have operated a tank on the property during the period of time for which the applicant owned the property and the applicant must not be a financial institution.

Sec. 5. Section 455G.10, subsection 3, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The benefits under this section shall be available to small businesses entering into the petroleum business.

Sec. 6. Section 455G.11, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. The applicant certifies in writing to the board that the tank to be insured will be brought into compliance with either paragraph "a" or "b", on or before ~~October 26, 1993~~ January 1, 1995, provided that prior to the provision of insurance account coverage, the tank site tests release free. ~~For a tank qualifying for insurance coverage pursuant to this paragraph at the time of application or renewal, the owner or operator shall pay a per tank premium equal to two times the normally scheduled premium for a tank satisfying paragraph "a" or "b".~~ An owner or operator who fails to comply as certified to the board on or before ~~October 26, 1993~~ January 1, 1995, shall not insure that tank through the insurance account unless and until the tank satisfies the requirements of paragraph "a" or "b". An owner or operator who fails to comply with either paragraph "a" or "b" by October 26, 1993, or who fails to enter into a contract on or before October 26, 1993, which, upon completion, will bring the owner or operator into compliance with either paragraph "a" or "b" by January 1, 1995, shall pay an additional surcharge of four hundred dollars per tank, per insured time period.

Sec. 7. Section 455G.11, subsection 4, Code 1993, is amended to read as follows:

4. Actuarially sound premiums based on risk factor adjustments after five years. The annual premium for insurance coverage shall be:

a. For the year July 1, 1989, through June 30, 1990, one hundred dollars per tank.

b. For the year July 1, 1990, through June 30, 1991, one hundred fifty dollars per tank.

c. For the year July 1, 1991, through June 30, 1992, two hundred dollars per tank.

d. For the year July 1, 1992, through June 30, 1993, two hundred fifty dollars per tank.

e. For the year July 1, 1993, through June 30, 1994, ~~three hundred dollars per tank.~~ in accordance with the following:

(1) For a tank satisfying subsection 3, paragraph "a" or "b", three hundred dollars per tank.

(2) For a tank qualifying under subsection 3, paragraph "c", six hundred dollars per tank.

f. For the period from July 1, 1994, through December 31, 1994, in accordance with the following:

(1) For a tank satisfying subsection 3, paragraph "a" or "b", three hundred fifty dollars per tank.

(2) For a tank qualifying under subsection 3, paragraph "c", seven hundred dollars per tank.

~~f~~ g. For subsequent ~~years~~ time periods, an owner or operator applying for coverage shall pay an annually adjusted insurance premium for coverage by the insurance account. The board may only approve fund coverage through the payment of a premium established on an actuarially sound basis. Risk factors shall be taken into account in establishing premiums. It is the intent of the general assembly that an actuarially sound premium reflect the risk to the insurance account presented by the insured. Risk factor adjustments should reflect the range of risk presented by the variety of tank systems, monitoring systems, and risk management practices in the general insurable tank population. Premium adjustments for risk factors should at minimum take into account lifetime costs of a tank and monitoring system and insurance account premiums for that tank system so as to provide a positive economic incentive to the owner or operator to install the more environmentally safe option so as to reduce the exposure of the insurance account to loss. Actuarially sound is not limited in its meaning to fund premium revenue equaling or exceeding fund expenditures for the general tank population.

If coverage is purchased for any part of a year the purchaser shall pay the full annual premium.

~~g~~ h. The insurance account may offer, at the buyer's option, a range of deductibles. A ten thousand dollar deductible policy shall be offered.

Sec. 8. Section 455G.11, subsection 6, paragraph b, Code 1993, is amended to read as follows:

b. ANNUAL PREMIUMS. The annual premium shall be:

(1) For the year July 1, 1991, through June 30, 1992, two hundred dollars per insured tank.

(2) For the year July 1, 1992, through June 30, 1993, two hundred fifty dollars per insured tank.

(3) For the year July 1, 1993, through June 30, 1994, three hundred dollars per insured tank.

(4) For the period from July 1, 1994, through December 31, 1994, three hundred fifty dollars per insured tank.

~~(4)~~ (5) For subsequent ~~years~~ time periods, installers and inspectors shall pay an annually adjusted insurance premium to maintain coverage on each tank previously installed or newly insured by the insurance account. The board may only approve fund coverage through the payment of a premium established on an actuarially sound basis. The premium paid shall be fully earned and is not subject to refund or cancellation. If coverage is purchased for any part of a year the purchaser shall pay the full annual premium.

~~(5)~~ (6) The board may offer coverage at rates based on sales if the qualifying installer or inspector cannot be rated on a per tank basis, or if the work the installer or inspector performs involves more than tank installation. The rates to develop premiums shall be based on the premium charged per tank under subparagraphs (1), (2), ~~and~~ (3), and (4).

Sec. 9. Section 455G.11, subsection 10, paragraph c, Code 1993, is amended to read as follows:

c. PREMIUMS. The annual premium for insurance coverage shall be two hundred fifty dollars per party, per location, with an overall limit of liability per site of five hundred thousand dollars. The premiums are fully earned. Each party purchasing coverage at that site will have the total limit of liability prorated over the total limit among the policies issued, so as to avoid stacking beyond the total coverage limit of five hundred thousand dollars. If coverage is purchased for any part of a year, the purchaser shall pay the full annual premium.

After ~~June 30~~ December 31, 1994, an owner, operator, landowner, or financial institution applying for coverage shall pay an annually adjusted insurance premium for coverage by the insurance account. The board may only approve fund coverage through the payment of a premium established on an actuarially sound basis.

Sec. 10. Section 455G.18, subsection 1, Code 1993, is amended to read as follows:

1. The department of natural resources shall adopt rules pursuant to chapter 17A requiring that groundwater professionals register with the department of natural resources. The rules shall include provisions for suspension or revocation of registration for good cause.

Approved May 21, 1993

CHAPTER 156

PROPERTY TAX CREDITS AND REIMBURSEMENTS

H.F. 671

AN ACT relating to the definition of income for purposes of the mobile home property tax credit and the homestead tax credit and rent reimbursement and providing effective and applicability dates.

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

Section 1. Section 425.17, subsection 7, Code 1993, is amended to read as follows:

7. "Income" means the sum of Iowa net income as defined in section 422.7, plus all of the following to the extent not already included in Iowa net income: Capital gains, alimony, child support money, cash public assistance and relief, except property tax relief granted under this

division, the gross amount of any pension or annuity, including but not limited to railroad retirement benefits, ~~all~~ payments received under the federal ~~social security~~ Social Security Act, except child insurance benefits received by a member of the claimant's household, and all military retirement and veterans' disability pensions, interest received from the state or federal government or any of its instrumentalities, workers' compensation and the gross amount of disability income or "loss of time" insurance. "Income" does not include gifts from nongovernmental sources, or surplus foods or other relief in kind supplied by a governmental agency.

Sec. 2. This Act takes effect January 1, 1994, and applies to mobile home tax claims and property tax credit claims filed on or after that date, and to rent reimbursement claims filed on or after January 1, 1995.

Approved May 21, 1993

CHAPTER 157

DOMESTIC ABUSE

S.F. 342

***AN ACT** relating to domestic abuse, expanding the definition of domestic abuse, adding no-contact provisions to pretrial release conditions, and providing penalties.

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

Section 1. Section 236.2, subsection 2, Code 1993, is amended to read as follows:

2. "Domestic abuse" means committing assault as defined in section 708.1 under ~~either~~ any of the following circumstances:

a. The assault is between family or household members who resided together at the time of the assault.

b. The assault is between separated spouses or persons divorced from each other and not residing together at the time of the assault.

c. The assault is between persons who are parents of the same minor child, regardless of whether they have been married or have lived together at any time.

d. The assault is between persons who have been family or household members residing together within the past year and are not residing together at the time of the assault.

Sec. 2. NEW SECTION. 236.3B ASSISTANCE BY COUNTY ATTORNEY.

A county attorney's office may provide assistance to a person wishing to initiate proceedings pursuant to this chapter or to a plaintiff at any stage of a proceeding under this chapter, if the individual does not have sufficient funds to pay for legal assistance and if the assistance does not create a conflict of interest for the county attorney's office. The assistance provided may include, but is not limited to, assistance in obtaining or completing forms, filing a petition or other necessary pleading, presenting evidence to the court, and enforcing the orders of the court entered pursuant to this chapter. Providing assistance pursuant to this section shall not be considered the private practice of law for the purposes of section 331.752.

Sec. 3. Section 236.4, subsection 1, Code 1993, is amended to read as follows:

1. ~~Within ten~~ Not less than five and not more than fifteen days after commencing a proceeding and upon notice to the other party, a hearing shall be held at which the plaintiff must prove the allegation of domestic abuse by a preponderance of the evidence.

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

Sec. 4. Section 236.5, subsection 4, Code 1993, is amended to read as follows:

4. A certified copy of any order or approved consent agreement shall be issued to the plaintiff, the defendant and the county sheriff having jurisdiction to enforce the order or consent agreement, and the twenty-four hour dispatcher for the county sheriff. Any subsequent amendment or revocation of an order or consent agreement shall be forwarded by the clerk to all individuals and the county sheriff previously notified. The clerk shall notify the county sheriff and the twenty-four hour dispatcher for the county sheriff in writing so that the county sheriff and the county sheriff's dispatcher receive written notice within six hours of filing the order, approved consent agreement, amendment, or revocation. The clerk may fulfill this requirement by sending the notice by facsimile or other electronic transmission which reproduces the notice in writing within six hours of filing the order. The county sheriff's dispatcher shall notify all law enforcement agencies having jurisdiction over the matter and the twenty-four hour dispatcher for the law enforcement agencies upon notification by the clerk. The clerk shall send or deliver a written copy of any such document to the law enforcement agencies and the twenty-four hour dispatcher within twenty-four hours of filing the document.

Sec. 5. Section 236.8, Code 1993, is amended to read as follows:

236.8 CONTEMPT.

The court may hold a party in contempt for a violation of an order or court-approved consent agreement entered under this chapter, for violation of a temporary or permanent protective order or order to vacate the homestead under chapter 598, or for violation of any order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault. If held in contempt, the defendant shall serve a jail sentence. Any jail sentence of more than one day imposed under this section shall be served on consecutive days.

A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court.

Sec. 6. Section 236.11, unnumbered paragraph 3, Code 1993, is amended to read as follows:

If the magistrate finds probable cause, the magistrate shall order the person to appear before the court which issued the original order or approved the consent agreement, whichever was allegedly violated, at a specified time not less than ~~three~~ five days nor more than ~~ten~~ fifteen days after the initial appearance under this section. The magistrate shall cause the original court to be notified of the contents of the magistrate's order.

Sec. 7. Section 236.14, subsection 2, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Violation of this no-contact order is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court. If held in contempt for violation of a no-contact order, the person shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this paragraph shall be served on consecutive days. No portion of the mandatory minimum term of confinement imposed by this section shall be deferred or suspended. A deferred judgment, deferred sentence, or suspended sentence shall not be entered for violation of a no-contact order, and the court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence.

Sec. 8. Section 236.14, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. This section shall not be construed to limit a pretrial release order issued pursuant to chapter 811.

Sec. 9. Section 708.2A, subsection 4, Code 1993, is amended to read as follows:

4. A person convicted of violating this section shall serve a minimum term of two days of the sentence imposed by law, and shall not be eligible for suspension of the minimum

sentence. The minimum term shall be served on consecutive days. The court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence. This section does not prohibit the court from sentencing and the defendant from serving the maximum term of confinement or from paying the maximum fine permitted pursuant to chapters 902 and 903, and does not prohibit the court from entering a deferred judgment or sentence pursuant to section 907.3, if the defendant has not previously received a deferred sentence or judgment for a violation of section 708.2 or this section which was issued on a domestic abuse assault. However, once the defendant has received one deferred sentence or judgment involving a violation of section 708.2 or this section which was issued on a domestic abuse assault, the defendant shall not be eligible to receive another deferred sentence or judgment for a violation of this section.

Sec. 10. Section 811.2, subsection 1, paragraph e, Code 1993, is amended to read as follows:

e. Impose any other condition deemed reasonably necessary to assure appearance as required, or the safety of another person or persons including a condition requiring that the defendant return to custody after specified hours, or a condition that the defendant have no contact with the victim or other persons specified by the court.

Sec. 11. Section 907.3, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. The offense is a finding of contempt pursuant to section 236.8 or 236.14.

Sec. 12. Section 907.3, subsections 2 and 3, Code 1993, are amended to read as follows:

2. At the time of or after pronouncing judgment and with the consent of the defendant, the court may defer the sentence and assign the defendant to the judicial district department of correctional services. However, the court shall not defer the sentence for a violation of section 708.2A if the defendant has previously received a deferred judgment or sentence for a violation of section 708.2 or 708.2A which was issued on a domestic abuse assault, or if similar relief was granted anywhere in the United States concerning that jurisdiction's statutes which substantially correspond to domestic abuse assault as provided in section 708.2A. In addition, the court shall not defer a sentence if it is imposed for contempt pursuant to section 236.8 or 236.14. Upon a showing that the defendant is not fulfilling the conditions of probation, the court may revoke probation and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon such terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Approved May 25, 1993

CHAPTER 158

HEALTH CARE COVERAGE — PROJECTS

S.F. 380

AN ACT relating to providing greater accessibility to health care and health care insurance coverage and establishing projects.

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

Section 1. Section 96.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10. HEALTH INSURANCE. The division shall establish a program of health insurance or health care coverage under a group policy or contract provided pursuant to chapter 509, 514, or 514B by an underwriter for individuals receiving benefits under this chapter. The individual may elect to be covered by having the amount of the premium or payment deducted from benefits and remitted to the underwriter. The division shall adopt rules pursuant to chapter 17A to implement this program.

Sec. 2. HEALTH INSURANCE PURCHASING COOPERATIVE PROJECTS.

1. The commissioner of insurance shall adopt rules and a licensing procedure for establishing health insurance purchasing cooperative projects. The rules shall be drafted in consultation with the health care reform project. The rules shall include, at a minimum, all of the following:

a. Procedures to sanction voluntary agreements between competitors within the service region of a health insurance purchasing cooperative, upon a finding by the commissioner that the agreement will improve quality, access, or affordability of health care, but which agreement might be a violation of antitrust laws if undertaken without government direction and approval.

b. Procedures to assure ongoing supervision of contracts sanctioned under this subsection, in order to assure that the contracts do in fact improve quality, access, or affordability. Approval may be withdrawn on a prospective basis at the discretion of the commissioner to enforce the intent to improve quality, access, or affordability.

c. A requirement to review the plan of operation of a health insurance purchasing cooperative, and standards for approval or disapproval of a plan.

d. A requirement that a plan of operation include guaranteed access and rating practices no more restrictive than those required of small group health insurers under chapter 513B or 514H.

e. An annual report to be submitted to the general assembly and the Iowa health care reform project not later than February 1 of each year, describing the operations of all health insurance purchasing cooperatives, and permitting review of the success of health insurance purchasing cooperatives in furthering the goals of improved quality, access, or affordability. The report shall include any recommendations on whether additional health insurance purchasing cooperatives should be authorized and the manner in which they should be authorized.

2. Nothing in this section shall prevent the development of any other health insurance or health care purchasing cooperative otherwise permitted by law.

Sec. 3. ORGANIZED DELIVERY SYSTEMS PROJECTS.

1. The director of public health shall adopt rules and a licensing procedure for establishing organized delivery system projects. The rules shall be drafted in consultation with the health care reform project. The rules shall include, at a minimum, all of the following:

a. Procedures to sanction voluntary agreements between competitors within the service region of an organized delivery system, upon a finding by the director that the agreement will improve quality, access, or affordability of health care, but which agreement might be a violation of antitrust laws if undertaken without government direction and approval.

b. Procedures to assure ongoing supervision of contracts sanctioned under this subsection, in order to assure that the contracts do in fact improve quality, access, or affordability. Approval

may be withdrawn on a prospective basis at the discretion of the director to enforce the intent to improve quality, access, or affordability.

c. A requirement to review the plan of operation of an organized delivery system, and standards for approval or disapproval of a plan.

d. A requirement that a plan of operation include guaranteed access and rating practices no more restrictive than those required of small group health insurers under chapter 513B or 514H.

e. Solvency standards to assure an organized delivery system's ability to deliver promised services. Solvency oversight may be conducted by the division of insurance under an agreement with the Iowa department of public health, with examination fees paid as provided for health maintenance organizations.

f. An annual report to be submitted to the general assembly not later than February 1 of each year, describing the operations of all organized delivery systems, and permitting review of the success of organized delivery systems in furthering the goals of improved quality, access, or affordability. The report shall include any recommendations on whether additional organized delivery systems should be authorized and the manner in which they should be authorized.

2. Nothing in this section shall prevent the development of any other health care delivery system or provider organization otherwise permitted by law.

Sec. 4. EMERGENCY RULES. Pursuant to sections 1, 2, and 3 of this Act, the commissioner of insurance or the director of public health shall adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this Act and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. 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.

Approved May 25, 1993

CHAPTER 159

PROPERTY TAX EXEMPTION FOR RECYCLING PROPERTY

S.F. 405

AN ACT extending the pollution control equipment property tax exemption to property used for the recycling of waste plastic, wastepaper products, and waste paperboard.

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

Section 1. Section 427.1, subsection 32, Code 1993, is amended to read as follows:

32. POLLUTION CONTROL AND RECYCLING. Pollution-control or recycling property as defined in this subsection shall be exempt from taxation to the extent provided in this subsection, upon compliance with the provisions of this subsection.

This exemption shall apply to new installations of pollution-control or recycling property beginning on January 1 after the construction or installation of the property is completed. This exemption shall apply beginning on January 1, 1975, to existing pollution-control property if its construction or installation was completed after September 23, 1970 and this exemption shall apply beginning January 1, 1994, to recycling property.

This exemption shall be limited to the market value, as defined in section 441.21, of the pollution-control or recycling property. If the pollution-control or recycling property is assessed with other property as a unit, this exemption shall be limited to the net market value added by the pollution-control or recycling property, determined as of the assessment date.

Application for this exemption shall be filed with the assessing authority not later than the first of February of the first year for which the exemption is requested, on forms provided by the department of revenue and finance. The application shall describe and locate the specific pollution-control or recycling property to be exempted.

The application for a specific pollution-control or recycling property shall be accompanied by a certificate of the administrator of the environmental protection division of the department of natural resources certifying that the primary use of the pollution-control property is to control or abate pollution of any air or water of this state or to enhance the quality of any air or water of this state or, if the property is recycling property, that the primary use of the property is for recycling.

A taxpayer may seek judicial review of a determination of the administrator of the environmental protection division or, on appeal, of the environmental protection commission in accordance with the provisions of chapter 17A.

The environmental protection commission of the department of natural resources shall adopt rules relating to certification under this subsection and information to be submitted for evaluating pollution-control or recycling property for which a certificate is requested. The department of revenue and finance shall adopt any rules necessary to implement this subsection, including rules on identification and valuation of pollution-control or recycling property. All rules adopted shall be subject to the provisions of chapter 17A.

For the purposes of this subsection "pollution-control property" means personal property or improvements to real property, or any portion thereof, used primarily to control or abate pollution of any air or water of this state or used primarily to enhance the quality of any air or water of this state and "recycling property" means personal property or improvements to real property or any portion of the property, used primarily in the manufacturing process and resulting directly in the conversion of waste plastic, wastepaper product, or waste paperboard, into new raw materials or products composed primarily of recycled material. In the event such property shall also serve other purposes or uses of productive benefit to the owner of the property, only such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to the control or abatement of pollution ~~or~~, to the enhancement of the quality of the air or water of this state, or for recycling shall be exempt from taxation under this subsection.

For the purposes of this subsection "pollution" means air pollution as defined in section 455B.131 or water pollution as defined in section 455B.171. "Water of the state" means the water of the state as defined in section 455B.171. "Enhance the quality" means to diminish the level of pollutants below the air or water quality standards established by the environmental protection commission of the department of natural resources.

Approved May 25, 1993

CHAPTER 160

SCHOOL REORGANIZATION

H.F. 496

AN ACT relating to supplementary weighting and area education agency and school district procedures regarding school reorganization.

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

Section 1. Section 257.12, unnumbered paragraph 1, Code 1993, is amended to read as follows:

In determining weighted enrollment under section 257.6, if the board of directors of a school district has approved a contract for sharing under section 442.39, subsection 2 or 4, Code 1991, or section 257.11 and the school district has initiated an action prior to November 30, 1990, to bring about a reorganization, the reorganized school district shall include, for a period of ~~five~~ six years following the effective date of the reorganization, additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan in the year preceding the reorganization. For the purposes of this paragraph, the weighted enrollment for the period of six years following the effective date of reorganization shall include the supplementary weighting in the base year used for determining the combined district cost for the first year of the reorganization. However, the weighting shall be reduced by the supplementary weighting added for a pupil whose residency is not within the reorganized district. For purposes of this ~~section~~ paragraph, a reorganized district is one in which the reorganization was approved in an election pursuant to sections 275.18 and 275.20 and takes effect on or after July 1, 1991, and on or before July 1, 1993. Each district which initiated, by a vote of the board of directors or jointly by the affected boards, action to bring about a reorganization or dissolution by November 30, 1990, shall certify the date and the nature of the action taken to the department of education by September 1, 1991.

Sec. 2. Section 257.12, unnumbered paragraph 2, Code 1993, is amended to read as follows:

A reorganized school district in which eligible pupils were added under section 442.39A, Code 1991, shall continue to have pupils added, subject to the changes in weighting made under section 257.11, until the expiration of the ~~five-year~~ period provided in ~~section 442.39A, Code 1991~~ this paragraph. For the purposes of this paragraph, the weighted enrollment continues for a period of six years following the effective date of reorganization and shall include the supplementary weighting in the base year used for determining the combined district cost for the first year of the reorganization.

Sec. 3. Section 275.1, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Initial board" means the board of a newly reorganized district that is selected pursuant to section 275.25 or 274.41* and functions until the organizational meeting following the fourth regular school election held after the effective date of the reorganization.

NEW SUBSECTION. 3A. "Regular board" means the board of a reorganized district that begins to function at the organizational meeting following the fourth regular school election held after the effective date of the school reorganization, and is comprised of members who were elected to the current terms or were appointed to replace members who were elected.

Sec. 4. Section 275.2, Code 1993, is amended to read as follows:

275.2 SCOPE OF SURVEYS.

The scope of the studies and surveys shall include the following matters in the various districts in the area education agency and all districts adjacent to the area education agency: The adequacy of the educational program, pupil enrollment, property valuations, existing buildings and equipment, natural community areas, road conditions, transportation, economic factors, individual attention given to the needs of students, the opportunity of students to participate in a wide variety of activities related to the total development of the student, and other matters that may bear on educational programs meeting minimum standards required by

*Section 275.41 probably intended

law. The plans shall also include suggested alternate plans that incorporate the school districts in the area education agency into reorganized districts that meet the enrollment standards specified in section 275.3 and may include alternate plans proposed by school districts for sharing programs under section 28E.9, 256.13, 280.15, ~~or~~ 282.7, or 282.10 as an alternative to school reorganization.

Sec. 5. Section 275.12, subsection 4, Code 1993, is amended to read as follows:

4. The area education agency board in reviewing the petition as provided in sections 275.15 and 275.16 shall review the proposed method of election of school directors and may change or amend the plan in any manner, including the changing of boundaries of director districts if proposed, or to specify a different method of electing school directors as may be required by law, justice, equity, and the interest of the people. In the action, the area education agency board shall follow the same procedure as is required by sections 275.15 and 275.16 for other action on the petition by the area education agency board. The area education agency shall ascertain that director district boundary lines comply with the provisions of section 275.23A, subsection 1, and shall make adjustments as necessary.

Sec. 6. Section 275.15, unnumbered paragraph 2, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

The area education agency board, when entering the order fixing the boundaries, shall consider all available evidence including, but not limited to, information presented by the petitioners, all objections requesting territory exclusion, reorganization studies and plans, geographical patterns evidenced by students using open enrollment to attend school in another district pursuant to section 282.18, potential travel distances required of students, and geographic configuration of the proposed district. The exclusion of territory shall represent a balance between the rights of the objectors and the welfare of the reorganized district.

Sec. 7. Section 275.22, Code 1993, is amended to read as follows:

275.22 CANVASS AND RETURN.

The precinct election officials shall count the ballots, and make return to and deposit the ballots with the county commissioner of elections, who shall enter the return of record in the commissioner's office. The election tally lists, including absentee ballots, shall be listed by individual school district. The county commissioner of elections shall certify the results of the election to the area education agency administrator. If the majority of the votes cast by the qualified electors is in favor of the proposition, as provided in section 275.20, a new school corporation shall be organized. If the majority of votes cast is opposed to the proposition, a new petition describing the identical or similar boundaries shall not be filed for at least six months from the date of the election. If territory is excluded from the reorganized district, action pursuant to section 274.37 shall be taken prior to the effective date of reorganization. The ~~area education agency administrator~~ secretary of the new school corporation shall file a written description of the boundaries as provided in section 274.4.

Sec. 8. Section 275.28, Code 1993, is amended to read as follows:

275.28 PLAN OF DIVISION OF ASSETS AND LIABILITIES.

~~A plan of reorganization in~~ In addition to setting up the territory to comprise the reorganized districts, a reorganization petition may provide for a division of assets and liabilities of the old districts between reorganized districts. If no provision is made in the ~~plan~~ petition for division of assets and liabilities, ~~such~~ or if territory is excluded from the reorganized district by the petition or by the area education agency board of directors, the division shall be made under the provisions of sections 275.29 to 275.31~~, inclusive, hereof~~.

Sec. 9. Section 275.29, Code 1993, is amended to read as follows:

275.29 DIVISION OF ASSETS AND LIABILITIES AFTER REORGANIZATION.

Between July 1 and July 20, the board of directors of the newly formed school district shall meet with the boards of ~~all~~ the ~~old~~ school districts~~, or parts of districts,~~ affected by the organization of the new school corporation, including the boards of districts receiving territory of

the school districts affected, for the purpose of reaching joint agreement on an equitable division of the assets of the several school corporations or parts of school corporations and an equitable distribution of the liabilities of the affected corporations or parts of corporations. In addition, if outstanding bonds are in existence in any district, the ~~boards~~ initial board of directors of the newly formed school district shall meet ~~together~~ with the boards of all school districts affected prior to ~~March~~ April 15 prior to the school year the reorganization is effective to determine the distribution of the bonded indebtedness between the districts so that the newly formed district may certify its budget under the procedures specified in chapter 24. The boards shall consider the mandatory levy required in section 76.2 and shall assure the satisfaction of outstanding obligations of each affected school corporation. If the petition includes plans for the distribution of the bonded indebtedness, the exclusion of territory from the reorganized district does not require action pursuant to this section.

Sec. 10. Section 275.30, Code 1993, is amended to read as follows:

275.30 ARBITRATION.

If the boards cannot agree on such division and distribution, the matters on which they differ shall be decided by disinterested arbitrators, one selected by ~~each~~ the initial board ~~having an interest therein, and if~~ of directors of the newly formed district, one by each of the boards of directors of the school districts affected, and one selected jointly by the boards of directors of contiguous districts receiving territory of the school district affected. If the number ~~thus~~ of arbitrators selected is even, ~~then one~~ a disinterested arbitrator shall be added by the area education agency administrator. The decision of the arbitrators shall be made in writing and filed with the secretary of the new corporation, and ~~any~~ a party to the proceedings may appeal ~~therefrom~~ the decision to the district court by serving notice ~~thereof~~ on ~~such~~ the secretary of the new corporation within twenty days after the decision is filed. ~~Such~~ The appeal shall be tried in equity and a decree entered determining the entire matter, including the levy, collection, and distribution of any necessary taxes.

Sec. 11. Section 275.33, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The collective bargaining agreement of the district with the largest basic enrollment for the year prior to the reorganization, as defined in section 257.6, in the new district shall serve as the base agreement and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall serve as the base agreement, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contracts for the following years without further action by the public employment relations board. The board of the newly formed district, using the base agreement as its existing contract, shall bargain with the combined employees of the existing districts for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by ~~March 15~~ the dates specified in section 20.17 prior to the school year in which the reorganization becomes effective or within one hundred eighty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the existing district with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective date of the reorganization, the base agreement shall remain in effect as specified in the agreement.

Sec. 12. Section 275.41, subsection 1, Code 1993, is amended to read as follows:

1. As an alternative to the method specified in section 275.25 for electing directors in a newly formed community school district, the procedure specified in this section may be used and if

used, the petition filed under section 275.12 shall state the number of directors on the initial board. If two districts are named in the petition, either five or seven directors shall serve on the initial board. If three or more districts are named in the petition, either seven or nine directors shall serve on the initial board. The petition shall specify the number of directors to be retained from each district, and those numbers shall be proportionate to the populations of the districts. If the exclusion of territory from a reorganization affects the proportionate balance of directors among the affected districts specified in the petition, or if the proposal specified in the petition does not comply with the requirement for proportionate representation, the area education board shall modify the proposal. However, all districts affected shall retain at least one member.

Sec. 13. Section 275.41, subsections 2 through 7, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

2. Prior to the organization meeting of the newly formed district, the boards of the former districts shall designate directors to be retained as members to serve on the initial board, and if the total number of directors determined under subsection 1 is an even number, that number of directors shall function and may within five days of the organizational meeting appoint one additional director by unanimous vote with all directors voting. Otherwise, the board shall function until a special election can be held to elect an additional director. The procedure for calling the special election shall be the procedure specified in section 275.25. If there is an insufficient number of board members eligible to be retained from a former school district, the board of the former school district may appoint members to fill the vacancies. A vacancy occurs if there is an insufficient number of former board members who reside in the newly formed district or if there is an insufficient number who are willing to serve on the board of the newly formed district.

3. Prior to the effective date of the reorganization, the initial board shall approve a plan that commences at the second regular school election held after the effective date of the merger and is completed at the fourth regular school election held after the effective date of the merger, to replace the initial board with the regular board. If the petition specifies a number of directors on the regular board to be different from the number of directors on the initial board, the plan shall provide that the number specified in the petition for the regular board is in place by the time the regular board is formed. The plan shall provide that as nearly as possible one-third of the members of the board shall be elected each year, and if a special election was held to elect a member to create an odd number of members on the board, the term of that member shall end at the organizational meeting following the fourth regular school election held after the effective date.

Sec. 14. Section 275.51, unnumbered paragraph 1, Code 1993, is amended to read as follows:

As an alternative to school district reorganization prescribed in this chapter, the board of directors of a school district may establish a school district dissolution commission to prepare a proposal of dissolution of the school district and attachment of all of the school district to one or more contiguous school districts and to include in the proposal a division of the assets and liabilities of the dissolving school district. A school district dissolution commission ~~may also~~ shall be established by the board of directors of a school district if a dissolution proposal has been prepared by eligible electors who reside within the district. The proposal must contain the names of the proposed members of the commission and be accompanied by a petition which has been signed by at least twenty percent of the eligible electors.

Sec. 15. NEW SECTION. 279.39 SCHOOL BUILDINGS.

The board of any school corporation shall establish attendance centers and provide suitable buildings for each school in the district and may at the regular or a special meeting call a special election to submit to the qualified electors of the district the question of voting a tax or authorizing the board to issue bonds, or both.

Sec. 16. Section 282.11, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Not less than thirty days prior to signing a whole grade sharing agreement whereby all or a substantial portion of the pupils in a grade in the district will attend school in another district, the board of directors of each school district that is a party to a proposed sharing agreement shall hold a public hearing at which the proposed agreement is described, and at which the parent or guardian of an affected pupil and certificated employees of the school district shall have an opportunity to comment on the proposed agreement. Within the thirty-day period prior to the signing of the agreement, the parent or guardian of an affected pupil may request the board of directors to send the pupil to another contiguous school district. For the purposes of this section, "affected pupils" are those who under the whole-grade sharing agreement are attending or scheduled to attend the school district specified in the agreement, other than the district of residence, during the term of the agreement. The request shall be based upon one of the following:

Sec. 17. Section 300.2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The proposition to levy the public recreation and playground tax is not affected by a change in the boundaries of a school district, except as otherwise provided in this section. If each district involved in school reorganization under chapter 275 has adopted the public recreation and playground tax, and if the voters have not voted upon the proposition to levy the public recreation and playground tax in the reorganized district, the existing public recreation and playground tax shall be in effect for the reorganized district for the least amount that has been approved in any of the districts and until discontinued pursuant to section 300.3.

Sec. 18. Section 275.32, Code 1993, is repealed.

Approved May 25, 1993

CHAPTER 161

WIND ENERGY CONVERSION PROPERTY — TAXATION

H.F. 664

AN ACT relating to providing for special valuation for property tax and sales, service, and use tax exemptions for wind energy conversion property.

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

Section 1. Section 422.45, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 48. The gross receipts from the sale of wind energy conversion property to be used as an electric power source and the sale of the materials used to manufacture, install, or construct wind energy conversion property used or to be used as an electric power source.

For purposes of this section, "wind energy conversion property" means any device, including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation, which converts wind energy to a form of usable energy.

Sec. 2. NEW SECTION. 427B.26 SPECIAL VALUATION OF WIND ENERGY CONVERSION PROPERTY.

1. a. A city council or county board of supervisors may provide by ordinance for the special valuation of wind energy conversion property as provided in subsection 2. The ordinance may be enacted not less than thirty days after a public hearing on the ordinance is held. Notice of the hearing shall be published in accordance with section 331.305 in the case of a county, or section 362.3 in the case of a city. The ordinance shall only apply to property first assessed

on or after the effective date of the ordinance.

b. If in the opinion of the city council or the county board of supervisors continuation of the special valuation provided under this section ceases to be of benefit to the city or county, the city council or the county board of supervisors may repeal the ordinance authorized by this subsection. Property specially valued under this section prior to repeal of the ordinance shall continue to be valued under this section until the end of the nineteenth assessment year following the assessment year in which the property was first assessed.

2. In lieu of the valuation and assessment provisions in section 441.21, subsection 9, paragraphs "b" and "c", and sections 428.24 to 428.29, wind energy conversion property which is first assessed for property taxation on or after January 1, 1994, and on or after the effective date of the ordinance enacted pursuant to subsection 1, shall be valued by the local assessor for property tax purposes as follows:

a. For the first assessment year, at zero percent of the net acquisition cost.

b. For the second through sixth assessment years, at a percent of the net acquisition cost which rate increases by five percentage points each assessment year.

c. For the seventh and succeeding assessment years, at thirty percent of the net acquisition cost.

3. The taxpayer shall file with the local assessor by February 1 of the assessment year in which the wind energy conversion property is first assessed for property tax purposes, a declaration of intent to have the property assessed at the value determined under this section in lieu of the valuation and assessment provisions in section 441.21, subsection 9, paragraphs "b" and "c", and sections 428.24 to 428.29.

4. For purposes of this section:

a. "Net acquisition cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

b. "Wind energy conversion property" means the entire windplant including, but not limited to, a wind charger, windmill, wind turbine, tower and electrical equipment, pad mount transformers, power lines, and substation.

Approved May 26, 1993

CHAPTER 162

COMPUTER INITIATIVE FOR SCHOOLS

S.F. 389

AN ACT relating to access by students to computers and establishing an educational technology consortium.

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

Section 1. NEW SECTION. 301A.1 COMPUTER INITIATIVE.

In order to meet the present and future technological needs of the children of this state, it is the intent of the general assembly that all pupils enrolled in the public and nonpublic schools of this state have access to computers and computer technology in their schools and in their homes and that educational software be developed to assist pupils in learning and to enhance their technological skills.

Sec. 2. NEW SECTION. 301A.2 EDUCATIONAL TECHNOLOGY CONSORTIUM.

No later than July 1, 1993, the governor, in consultation with the president of the senate, the majority and minority leaders of the senate, and the speaker of the house, and the majority

and minority leaders of the house, shall establish an educational technology consortium. Members of the consortium appointed by the governor shall represent both the public and private sectors and be knowledgeable about the present and future development of computers, telecommunications systems, and computer software.

Members appointed by the governor, in consultation with the president of the senate, the majority and minority leaders of the senate, and the speaker of the house, and the majority and minority leaders of the house, may represent, but are not limited to, the following:

1. Manufacturers and sellers of computer hardware and software.
2. Entertainment and information companies.
3. Broadcasting and film companies.
4. Telephone, cable television, and information transmission companies.
5. Printing and publishing companies.
6. Other technology service companies.
7. Educational practitioners from all levels of the education system.
8. Iowa department of economic development.
9. Librarians.
10. Iowa department of education.
11. A member of the senate to be appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, to serve as a nonvoting member.
12. A member of the house of representatives to be appointed by the speaker of the house, after consultation with the majority leader and the minority leader of the house, to serve as a nonvoting member.

All appointments shall comply with sections 69.16 and 69.16A.

Sec. 3. NEW SECTION. 301A.3 DEVELOPMENT OF PLAN.

The consortium shall develop a plan for computer hardware and software for the use of children in this state. In developing its plan, the consortium shall examine the need for ensuring equal access to educational technology and make recommendations relating to optimal specifications for educational technology and software that is needed for school and home use. The consortium shall consider options for encouraging the development of products that meet the optimal specifications if, in the consortium's estimation, such products will not be available at a reasonable price within the next three years.

The consortium shall also consider the development of a risk management plan to cover the potential for loss and damage to components of the hardware and software. The consortium shall also promote cooperation with other states which might share in the development of the hardware and software.

In carrying out the duties described in this section, the consortium shall coordinate its work with the work of the educational technology commission established by the department of education.

Sec. 4. NEW SECTION. 301A.4 CONSORTIUM CONSIDERATIONS.

As it develops its recommendations, the consortium shall consider the following:

1. Capabilities needed for the hardware system, including but not limited to, processing, memory, display, audio capabilities, storage capacity, input devices, connectivity, ability to be upgraded, portability, durability, telecommunication capabilities, expandability, obsolescence, versatility for running diverse software, and usability for school and home.

2. Capabilities needed for the software for home and school use, including but not limited to, present educational needs and potential for meeting future needs of the education system. The members of the consortium shall consult with representatives of educational agencies, educational institutions, school corporations, and nonpublic schools, and with licensed education practitioners in considering existing educational software and the potential for developing new educational software.

3. Economic development benefits, including but not limited to, the following:

a. The feasibility of manufacturing or assembling the computer and peripheral devices in this state and whether maintenance and support services can be based in this state.

b. Determination, given the size of the proposed acquisition, of whether new commercial interests would be fostered or existing commercial interests could expand due to the markets created by the sales of the hardware and software.

c. Consideration of whether market opportunities exist by the proposed acquisition for the development of educational software that have potential for sales in other states or nations.

d. Consideration of whether coordination of acquisition needs for multiple commercial interests for computer processing power and memory is possible or advisable, and if so, identification of the benefits.

e. Potential for improving the technological skills not only of students but of their parents or guardians for computers in their homes.

4. The current computer hardware inventories of the school districts and of the parents or guardians of pupils enrolled in public school districts.

5. Multimedia presentation hardware and software currently used or available for use by a school district.

Sec. 5. NEW SECTION. 301A.5 EXEMPTION FROM ANTITRUST LAWS.

Notwithstanding any contrary provision of the Code, for purposes of participating in the computer initiative for schools, commercial interests shall be exempt from a challenge under any applicable state antitrust laws and, if necessary, the consortium shall seek exemption from federal antitrust laws or similar laws in the regulation of trade or commerce for those commercial interests.

Sec. 6. NEW SECTION. 301A.6 METHODS OF ACQUISITION.

The consortium shall estimate the number of units to be acquired to optimize economies of scale in acquisitions. The consortium shall develop recommendations relating to funding options for the acquisition of the hardware and software. These include, but are not limited to, use of student fees, use of existing technology acquisition budgets, user charges using a sliding fee scale, charges for information transmission, taxation of those entities in the private sector benefiting from the acquisition, use of federal moneys, use of grants and gifts, generation of royalties from the sale of software developed for the initiative, use of in-kind contributions, and coordination of existing spending by schools, students, or parents.

Sec. 7. NEW SECTION. 301A.7 REPORT.

On January 15, 1994, and each January 15 thereafter, the consortium shall file a report of its progress with the governor and the general assembly. The report shall be filed with the governor, the senate, and the house of representatives using both a paper format and electronic technology.

Sec. 8. NEW SECTION. 301A.8 REPEAL.

This chapter is repealed June 30, 1997.

Approved May 27, 1993

CHAPTER 163

GOVERNMENT ETHICS

H.F. 144

AN ACT relating to government ethics, providing penalties, transition provisions, providing for retroactive applicability, and an effective date.

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

Section 1. Section 68B.2, Code 1993, is amended to read as follows:

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, but does not include any agricultural commodity promotional board, which is subject to a producer referendum.

2. "Agency of state government" or "state 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, but does not include any agricultural commodity promotional board, which is subject to a producer referendum.

2A. "Board" means the Iowa ethics and campaign disclosure board.

~~2~~ 3. "Candidate" means a candidate under chapter 56 but does not include any judge standing for retention in a judicial election.

~~3~~ 4. "Candidate's committee" means the committee designated by ~~the~~ a candidate for a state, county, city, or school office, as provided under chapter 56, to receive contributions in excess of five hundred dollars in the aggregate, expend funds in excess of five hundred dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of five hundred dollars 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.~~

5. "Client" means a private person or a state, federal, or local government entity that pays compensation to or designates an individual to be a lobbyist.

~~4~~ 6. "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered.

~~5~~ 7. "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~~ 8. ~~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~~ 9. ~~a.~~ "Honorarium" means anything of value that is accepted ~~by,~~ or ~~on behalf of, a public official or public employee~~ given 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.22, 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~~ 10. "Immediate family members" means the spouse and ~~minor~~ dependent children of a public official or public employee.

~~9~~ 11. "Legislative employee" means a permanent full-time ~~official or~~ employee of the general assembly but does not include members of the general assembly.

~~10~~ 12. a. "Lobbyist" means a ~~person~~ an individual who, by acting directly, does any of the following:

(1) ~~Is paid~~ Receives compensation ~~for encouraging~~ to encourage the passage, defeat, approval, veto, or modification of legislation ~~or regulation, or for influencing the decision of~~, a rule, or an executive order by the members of the general assembly, a state agency, or any statewide elected official.

(2) ~~Represents on a regular basis~~ Is a designated representative of an organization which has as one of its purposes the encouragement of the passage, defeat, approval, veto, or modification of legislation ~~or regulation, or the influencing of a decision of the members of~~, a rule, or an executive order before the general assembly, a state agency, or any statewide elected official.

(3) ~~Is~~ Represents the position of a federal, state, or local government ~~official or employee who represents the official position of the official or employee's~~ agency ~~and who encourages~~, in which the person serves or is employed as the designated representative, for purposes of encouraging the passage, defeat, approval, veto, or modification of legislation, ~~or regulation, or the influencing of decision of the~~ a rule, or an executive order by members of the general assembly, a state agency, or ~~the office of the governor~~ any statewide elected official.

(4) Makes expenditures of more than one thousand dollars in a calendar year, other than to pay compensation to an individual who provides the services specified under subparagraph (1) or to communicate with only the members of the general assembly who represent the district in which the individual resides, to communicate in person with members of the general assembly, a state agency, or any statewide elected official for purposes of encouraging the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order.

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~~ All federal, state, and local elected officials, ~~and elected federal officials~~ while performing the duties and responsibilities of office.

(4) Persons whose activities are limited to ~~formal~~ appearances to give testimony or provide information or assistance at ~~public~~ sessions of committees of the general assembly or at public hearings of state agencies ~~and whose appearances as a result of testifying, are recorded in the records of the committee or agency~~ or who are giving testimony or providing information or assistance at the request of public officials or employees.

(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~~ the staff of the United States congress or the Iowa general assembly.

~~(7)~~ (6) Agency officials and employees ~~who influence the decisions of~~ while they are engaged in activities within the agency in which they serve or are employed or with another agency with which the official's or employee's agency is involved in a collaborative project.

(7) An individual who is a member, director, trustee, officer, or committee member of a business, trade, labor, farm, professional, religious, education, or charitable association, foundation, or organization who either is not paid compensation or is not specifically designated as provided in paragraph "a", subparagraph (1) or (2).

(q) Persons whose activities are limited to submitting data, views, or arguments in writing, or requesting an opportunity to make an oral presentation under section 17A.4, subsection 1.

~~11~~ 13. "Local employee" means a person employed by a political subdivision of this state.

~~12~~ 14. "Local official" means an officeholder of a political subdivision of this state.

~~13~~ 15. "Member of the general assembly" means an individual duly elected to the senate or the house of representatives of the state of Iowa.

~~14~~ 16. "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~~ all statewide elected officials, the executive or administrative head or heads of an agency of state government, the deputy executive or administrative head or heads of an agency of state government, members of boards or commissions as defined under section 7E.4, and heads of the major subunits of departments or independent state agencies whose positions involve a substantial exercise of administrative discretion or the expenditure of public funds as defined under rules of the board adopted in consultation with the department or agency and pursuant to chapter 17A. "Official" does not include officers or employees of political subdivisions of the state, 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, members of state government entities which are or exercise the same type of authority that is exercised by councils or committees as defined under section 7E.4, or members of any agricultural commodity promotional board, if the board is subject to a producer referendum.

~~15~~ 17. "Person" means, without limitation, any individual, corporation, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

~~16~~ 18. "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~~ 19. "Public employee" means state employees, legislative employees, and local employees.

~~18~~ 20. "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~~ 21. "Public official" means officials, local officials, and members of the general assembly.

~~20~~ 22. "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.

23. "Restricted donor" means a person who is in any of the following categories:

a. 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.

b. Will personally be, or is the agent of a person who 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.

c. Is personally, or is the agent of a person who is, the subject of or party to a matter which is pending before a subunit of a regulatory agency and over which the donee has discretionary authority as part of the donee's official duties or employment within the regulatory agency subunit.

d. Is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction.

~~21~~ 24. "State employee" means a person who is not an official and is a paid employee of the state of Iowa and does not include an independent contractor, an employee of the judicial department who is not an employee of the office of attorney general, a legislative employee, ~~or~~ an employee of a political subdivision of the state, or an employee of any agricultural commodity promotional board, if the board is subject to a producer referendum. ~~"State employee" includes but is not limited to all clerical personnel.~~

25. "Statewide elected official" means the governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, and attorney general of the state of Iowa.

Sec. 2. NEW SECTION. 68B.2A CONFLICTS OF INTEREST.

1. Any person who serves or is employed by the state or a political subdivision of the state shall not engage in any outside employment or activity which is in conflict with the person's official duties and responsibilities. In determining whether particular outside employment or activity creates an unacceptable conflict of interest, situations in which an unacceptable conflict shall be deemed to exist shall include, but not to be limited to, any of the following:

a. The outside employment or activity involves the use of the state's or the political subdivision's time, facilities, equipment, and supplies or the use of the state or political subdivision badge, uniform, business card, or other evidences of office or employment to give the person or member of the person's immediate family an advantage or pecuniary benefit that is not available to other similarly situated members or classes of members of the general public. This paragraph does not apply to off-duty peace officers who provide private duty security or fire fighters or basic or advanced emergency medical care providers certified under chapter 147 or 147A who provide private duty fire safety or emergency medical services while carrying their badge or wearing their official uniform, provided that the person has secured the prior approval of the agency or political subdivision in which the person is regularly employed to engage in the activity. For purposes of this subsection, a person is not "similarly situated" merely by being or being related to a person who serves or is employed by the state or a political subdivision of the state.

b. The outside employment or activity involves the receipt of, promise of, or acceptance of money or other consideration by the person, or a member of the person's immediate family, from anyone other than the state or the political subdivision for the performance of any act that the person would be required or expected to perform as a part of the person's regular duties or during the hours during which the person performs service or work for the state or political subdivision of the state.

c. The outside employment or activity is subject to the official control, inspection, review, audit, or enforcement authority of the person, during the performance of the person's duties of office or employment.

2. If the outside employment or activity is employment or activity described in subsection 1, paragraph "a" or "b", the person shall immediately cease the employment or activity. If the outside employment or activity is employment or activity described in subsection 1, paragraph "c", or constitutes any other unacceptable conflict of interest, unless otherwise provided by law, the person shall take one of the following courses of action:

a. Cease the outside employment or activity.

b. Publicly disclose the existence of the conflict and refrain from taking any official action or performing any official duty that would detrimentally affect or create a benefit for the outside employment or activity. For purposes of this paragraph, "official action" or "official duty" includes, but is not limited to, participating in any vote, taking affirmative action to influence any vote, granting any license or permit, determining the facts or law in a contested case or rule making proceeding, conducting any inspection, or providing any other official service or thing that is not available generally to members of the public in order to further the interests of the outside employment or activity.

3. Unless otherwise specifically provided the requirements of this section shall be in addition to, and shall not supersede, any other rights or remedies provided by law.

Sec. 3. Section 68B.3, subsection 1, Code 1993, is amended to read as follows:

1. An official, a state employee, a member of the general assembly, or a legislative employee shall not sell, in any one occurrence, any goods or services having a value in excess of ~~five hundred~~ two thousand 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. This subsection shall also not apply to sales of services by persons subject to the requirements of this section to state executive branch

agencies or subunits of departments or independent agencies as defined under section 7E.4 that are not the subunit of the department or independent agency in which the person serves or is employed or are not a subunit of a department or independent agency with which the person has substantial and regular contact as part of the person's duties.

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~~ instructors at the education institution.

Sec. 4. Section 68B.5A, Code 1993, is amended to read as follows:

68B.5A ~~TWO-YEAR~~ BAN ON CERTAIN LOBBYING ACTIVITIES ~~AFTER SERVICE~~.

1. A person who serves as a statewide elected official, the executive or administrative head of an agency of state government, the deputy executive or administrative head of an agency of state government, or a member of the general assembly shall not act as a lobbyist during the time in which the person serves or is employed by the state unless the person is designated, by the agency in which the person serves or is employed, to represent the official position of the agency.

1A. The head of a major subunit of a department or independent state agency, full-time employee of an office of a statewide elected official, or a legislative employee, whose position involves a substantial exercise of administrative discretion or the expenditure of public funds, shall not, during the time in which the person serves or is employed by the state, act as a lobbyist before the agency in which the person is employed or before state agencies, officials, or employees with whom the person has substantial or regular contact as part of the person's duties, unless the person is designated, by the agency in which the person serves or is employed, to represent the official position of the agency.

1B. A state or legislative employee, who is not subject to the requirements of subsection 1A shall not act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person is directly concerned and personally participates as part of the person's employment, unless the person is designated, by the agency in which the person is employed, to represent the official position of the agency.

~~1~~ 2. A person ~~who has served as an official, state employee, member of the general assembly, or legislative employee~~ who is subject to the requirements of subsection 1 shall not within two years after the termination of service or employment become a lobbyist.

3. The head of a major subunit of a department or independent state agency, full-time employee of an office of a statewide elected official, or a legislative employee whose position involves a substantial exercise of administrative discretion or the expenditure of public funds, shall not, within two years after termination of employment, become a lobbyist before the agency in which the person was employed or before state agencies or officials or employees with whom the person had substantial and regular contact as part of the person's former duties.

3A. A state or legislative employee, who is not subject to the requirements of subsection 1A shall not, within two years after termination of employment, act as a lobbyist in relation to any particular case, proceeding, or application with respect to which the person was directly concerned and personally participated as part of the person's employment.

~~2~~ 4. 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, appointed to, or employed by another office of the state, ~~or to~~ an office of a political subdivision of the state, or the federal government and appears or communicates on behalf or as part of the duties of that office or employment.

Sec. 5. Section 68B.6, Code 1993, is amended to read as follows:

68B.6 SERVICES AGAINST STATE PROHIBITED.

1. ~~No official~~ All statewide elected officials, the executive or administrative head or heads of an agency of state government, the deputy executive or administrative head or heads of an agency of state government, the heads of the major subunits of departments or independent state agencies whose positions involve a substantial exercise of administrative discretion or the expenditure of public funds as defined under rules of the board, in consultation

with the department or agency, under chapter 17A, state ~~employee~~ employees, or legislative ~~employee~~ employees shall not receive, directly or indirectly, or enter into any express or implied agreement for, ~~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.

2. A person who is an official, but who is not subject to the requirements of subsection 1, shall not 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 the subunit of a department or independent agency in which the person serves, is employed, or with which the person has substantial and regular contact as part of the person's duties.

Sec. 6. Section 68B.22, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

68B.22 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 from a restricted donor. A public official, public employee, candidate, or the person's immediate family member shall not solicit any gift or series of gifts from a restricted donor at any time.

2. Except as otherwise provided in this section, a restricted donor 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 restricted donor shall not, directly or indirectly, join with one or more other restricted donors to offer or make a gift or a series of gifts to a public official, public employee, or candidate.

3. A restricted donor may give, and a public official, public employee, or candidate, or the person's immediate family member, may accept an otherwise prohibited nonmonetary gift or a series of otherwise prohibited 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. Notwithstanding subsections 1 and 2, the following gifts may be received by public officials, public employees, candidates, or members of the immediate family of public officials, public employees, or candidates:

a. Contributions to a candidate or a candidate's committee.

b. Informational material relevant to a public official's or public employee's official functions, such as books, pamphlets, reports, documents, periodicals, or other information that is recorded in a written, audio, or visual format.

c. Anything received from anyone 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.

d. An inheritance.

e. Anything available or distributed free of charge to members of the general public without regard to the official status of the recipient.

f. Items received from a bona fide charitable, professional, educational, or business organization to which the donee belongs as a dues paying member, if the items are given to all members of the organization without regard to individual members' status or positions held outside of the organization and if the dues paid are not inconsequential when compared to the items received.

g. Actual expenses of a donee for food, beverages, registration, 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.

h. Plaques or items of negligible resale value which are given as recognition for the public services of the recipient.

i. Nonmonetary items with a value of three dollars or less that are received from any one donor during one calendar day.

j. Items or services solicited by or given to, for purposes of a business or educational conference, seminar, or other meeting, a state, national, or regional government organization in which the state of Iowa or a political subdivision of the state is a member, or solicited by or given for the same purposes to state, national, or regional government organizations whose memberships and officers are primarily composed of state or local government officials or employees.

k. Items or services received by members or representatives of members at a regularly scheduled event that is part of a business or educational conference, seminar, or other meeting that is sponsored and directed by any state, national, or regional government organization in which the state of Iowa or a political subdivision of the state is a member, or received at such an event by members or representatives of members of state, national, or regional government organizations whose memberships and officers are primarily composed of state or local government officials or employees.

l. Funeral flowers or memorials to a church or nonprofit organization.

m. Gifts which are given to a public official or public employee for the public official's or public employee's wedding or twenty-fifth or fiftieth wedding anniversary.

n. Payment of salary or expenses by a person's employer or the firm in which the person is a member for the cost of attending a meeting of a subunit of an agency when the person whose expenses are being paid serves on a board, commission, committee, council, or other subunit of the agency and the person is not entitled to receive compensation or reimbursement of expenses from the state or a political subdivision of the state for attending the meeting.

o. Gifts of food, beverages, travel, or lodging received by a public official or public employee if all of the following apply:

(1) 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, encourage expansion or retention of an existing business already established in the state, or to develop markets for Iowa businesses or products.

(2) The donor of the gift is not the business or businesses being contacted. However, food or beverages provided by the business or businesses being contacted which are consumed during the meeting are not a gift under section 68B.2, subsection 8, or this section.

(3) The public official or public employee plays a significant role in the presentation to the business or businesses on behalf of the public official's or public employee's agency.

p. Gifts other than food, beverages, travel, and lodging received by a public official or public employee which are received from a person who is a citizen of a country other than the United States and is given during a ceremonial presentation or as a result of a custom of the other country and is of personal value only to the donee.

5. 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.

6. A gift shall not be considered to be received by a public official or public employee if the state is the donee of the gift and the public official or public employee is required to receive the gift on behalf of the state as part of the performance of the person's duties of office or employment.

7. 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.

8. An organization or association which has as one of its purposes the encouragement of the passage, defeat, introduction, or modification of legislation shall not give and a member of the general assembly shall not receive food, beverages, registration, or scheduled entertainment with a per person value in excess of three dollars.

Sec. 7. Section 68B.23, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

68B.23 HONORARIA — BANNED.

1. Except as provided in subsection 2, a public official or public employee shall not seek or accept an honorarium from a restricted donor.

2. A public official or public employee may accept an honorarium from any person under the following circumstances:

a. The honorarium consists of payment of actual expenses of a donee for registration, food, beverages, travel, and lodging paid in return for participation in a panel or speaking engagement at a meeting when the expenses relate directly to the day or days on which the recipient has participation or presentation responsibilities.

b. The honorarium consists of a nonmonetary item or series of nonmonetary items that the public official or public employee donates 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.22, subsection 3.

c. The honorarium consists of 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.

Sec. 8. Section 68B.24, Code 1993, is amended to read as follows:

68B.24 LOANS — RECEIPT FROM LOBBYISTS PROHIBITED.

1. An official, member of the general assembly, state employee, legislative 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.

2. 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, legislative 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, legislative employee, or candidate for state office.

3. This section shall not apply to loans made in the ordinary course of business. For purposes of this section, a loan is "made in the ordinary course of business" when it is made by a person who is regularly engaged in a business that makes loans to members of the general public and the finance charges and other terms of the loan are the same or substantially similar to the finance charges and loan terms that are available to members of the general public.

Sec. 9. Section 68B.25, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

68B.25 ADDITIONAL PENALTY.

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates a provision of sections 68B.2A through 68B.7, sections 68B.22 through 68B.24, or sections 68B.35 through 68B.38 is guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned.

Sec. 10. Section 68B.26, Code 1993, is amended to read as follows:

68B.26 ACTIONS COMMENCED.

Actions against public officials or public employees to enforce the provisions of this chapter may be commenced by the filing of a complaint with the county attorney by any legal resident of the state of Iowa who is eighteen years of age or more at the time of commencing the action or by the attorney general. Complaints regarding conduct of local officials or local employees which violates this chapter shall be filed with the county attorney in the county where the accused resides.

Sec. 11. Section 68B.31, subsection 4, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The ethics committee may employ independent legal counsel to assist the committee in carrying out the committee's duties under this chapter. Payment of costs for the independent legal counsel shall be made from funds appropriated pursuant to section 2.12.

Sec. 12. Section 68B.31, subsections 6, 8, and 9, Code 1993, are amended to read as follows:

6. The ethics committee shall promptly notify any party alleged to have committed a violation of the code of ethics, rules governing lobbyists, or this chapter of the filing of a complaint by causing a copy of the complaint to be served or personally delivered to the party charged, unless service is waived by the party charged, and shall review ~~a~~ 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 and the party charged in the complaint shall be notified that the complaint has been returned. If a complaint, previously found to be deficient as to form, is refiled in different form, the party charged in the complaint shall be provided with a copy of the new document in the same manner as provided for service of the initial complaint. Any amendments to a complaint that are filed with the committee shall also be served or personally delivered, unless service is waived, to the party charged in the complaint. 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, the rules governing lobbyists, 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.

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~~ 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 of each house shall ~~maintain~~ recommend rules for adoption by the respective house relating to the confidentiality of a complaint ~~unless either the complainant or the alleged violator publicly discloses~~ or information which has been filed or provided to the committee. Rules adopted shall provide for initial confidentiality of a complaint, unless the complaint has been publicly disclosed, and shall permit the ethics committee to treat some or all of the contents of a complaint or other information as confidential if the committee finds that the criteria established under section 22.7, subsection 18, for keeping certain information confidential, are met. If the existence of a complaint or a preliminary investigation~~.~~ ~~The~~ is made public, the ethics committee~~, upon such a disclosure by the complainant or the alleged violator, may~~ shall publicly confirm the existence of the complaint or preliminary inquiry and, in the ethics committee's discretion, make public the complaint or investigation and any documents which were issued to ~~either~~ any party to the complaint or investigation. However, this subsection shall not prevent the committee from furnishing the complaint or other information to the appropriate law enforcement authorities at any time. Upon commencement of a hearing on a complaint, all investigative material shall be made available to the subject of the hearing and any material that is introduced at the hearing shall be public information.

Sec. 13. Section 68B.31, subsection 11, Code 1993, is amended to read as follows:

11. Violation of 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. Section 68B.32, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

68B.32 INDEPENDENT ETHICS AND CAMPAIGN DISCLOSURE BOARD — ESTABLISHED.

1. An Iowa ethics and campaign disclosure board is established as an independent agency. Effective January 1, 1994, the board shall administer this chapter and set standards for, investigate complaints relating to, and monitor the ethics of officials, employees, lobbyists, and candidates for office in the executive branch of state government. The board shall also administer and set standards for, investigate complaints relating to, and monitor the campaign finance practices of candidates for public office. The board shall consist of six members and shall be balanced as to political affiliation as provided in section 69.16. The members shall be appointed by the governor, subject to confirmation by the senate.

2. Members shall serve staggered six-year terms beginning and ending as provided in section 69.19. Any vacancy on the board shall be filled by appointment for the unexpired portion of the term, within ninety days of the vacancy and in accordance with the procedures for regular appointments. A member of the board may be reappointed to serve additional terms on the board. Members may be removed in the manner provided in chapter 69.

3. The board shall annually elect one member to serve as the chairperson of the board and one member to serve as vice chairperson. The vice chairperson shall act as the chairperson in the absence or disability of the chairperson or in the event of a vacancy in that office.

4. Members of the board shall receive a per diem as specified in section 7E.6 while conducting business of the board, and payment of actual and necessary expenses incurred in the performance of their duties. Members of the board shall file statements of financial interest under section 68B.35.

5. The board shall employ a full-time executive secretary who shall be the board's chief administrative officer. The board shall employ or contract for the employment of legal counsel notwithstanding section 13.7, and any other personnel as may be necessary to carry out the duties of the board. The board's legal counsel shall be the chief legal officer of the board, and shall advise the board on all legal matters relating to the administration of this chapter and chapter 56. The state may be represented by the board's legal counsel in any civil action regarding the enforcement of this chapter or chapter 56, or, at the board's request, the state may be represented by the office of the attorney general. Notwithstanding section 19A.3, all of the board's employees, except for the executive secretary and legal counsel, shall be employed subject to the merit system provisions of chapter 19A.

Sec. 15. NEW SECTION. 68B.32A DUTIES OF THE BOARD.

The duties of the board shall include, but are not limited to, all of the following:

1. Adopt rules pursuant to chapter 17A and conduct hearings under sections 68B.32B and 68B.32C and chapter 17A, as necessary to carry out the purposes of this chapter and chapter 56.

2. Develop, prescribe, furnish, and distribute any forms necessary for the implementation of the procedures contained in this chapter and chapter 56 for the filing of reports and statements by persons required to file the reports and statements under this chapter and chapter 56.

3. Review the contents of all campaign finance disclosure reports and statements filed with the board and promptly advise each person or committee of errors found. The board may verify information contained in the reports with other parties to assure accurate disclosure. The board may also verify information by requesting that a candidate or committee produce copies of receipts, bills, logbooks, or other memoranda of reimbursements of expenses to a candidate for expenses incurred during a campaign. The board, upon its own motion, may initiate action and conduct a hearing relating to requirements under chapter 56. The board may require a county commissioner of elections to periodically file summary reports with the board.

4. Receive and file registration and reporting from lobbyists of the executive branch of state government, client disclosure from clients of lobbyists of the executive branch of state government, and personal financial disclosure information from officials and employees in the executive branch of state government who are required to file personal financial disclosure information under this chapter. The board, upon its own motion, may initiate action and conduct a hearing relating to reporting requirements under this chapter.

5. Prepare and publish a manual setting forth examples of approved uniform systems of accounts and approved methods of disclosure for use by persons required to file statements and reports under this chapter and chapter 56. The board shall also prepare and publish other educational materials, and any other reports or materials deemed appropriate by the board. The board shall annually provide all officials and state employees with notification of the contents of this chapter and chapter 56 by distributing copies of educational materials to associations that represent the interests of the various governmental entities for dissemination to their membership.

6. Assure that the statements and reports which have been filed in accordance with this chapter and chapter 56 are available for public inspection and copying during the regular office hours of the office in which they are filed and not later than by the end of the day during which a report or statement was received. Rules adopted relating to public inspection and copying of statements and reports may include a charge for any copying and mailing of the reports and statements, shall provide for the mailing of copies upon the request of any person and upon prior receipt of payment of the costs by the board, and shall prohibit the use of the

information copied from reports and statements for soliciting contributions or for any commercial purpose by any person other than statutory political committees.

7. Require that the candidate of a candidate's committee, or the chairperson of a political committee, is responsible for filing disclosure reports under chapter 56, and shall receive notice from the board if the committee has failed to file a disclosure report at the time required under chapter 56. A candidate of a candidate's committee, or the chairperson of a political committee may be subject to a civil penalty for failure to file a disclosure report required under section 56.6, subsection 1.

8. Establish and impose penalties, and recommendations for punishment of persons who are subject to penalties of or punishment by the board or by other bodies, for the failure to comply with the requirements of this chapter or chapter 56.

9. Determine, in case of dispute, at what time a person has become a candidate.

10. Preserve copies of reports and statements filed with the board for a period of five years from the date of receipt.

11. Establish a procedure for requesting and issuing formal and informal board opinions to local officials and employees and to persons subject to the authority of the board under this chapter or chapter 56. Advice contained in formal board opinions shall, if followed, constitute a defense to a complaint filed with the board alleging a violation of this chapter, chapter 56, or rules of the board that is based on the same facts and circumstances.

12. Establish rules relating to ethical conduct for persons holding a state office in the executive branch of state government, including candidates, and for employees of the executive branch of state government and regulations governing the conduct of lobbyists of the executive branch of state government, including but not limited to conflicts of interest, abuse of office, misuse of public property, use of confidential information, participation in matters in which an official or state employee, has a financial interest, and rejection of improper offers.

13. Impose penalties upon, or refer matters relating to, persons who discharge any employee, or who otherwise discriminate in employment against any employee, for the filing of a complaint with, or the disclosure of information to, the board if the employee has filed the complaint or made the disclosure in good faith.

14. Establish fees, where necessary, to cover the costs associated with preparing, printing, and distributing materials to persons subject to the authority of the board.

Sec. 16. NEW SECTION. 68B.32B COMPLAINT PROCEDURES.

1. Any person may file a complaint alleging that a candidate, committee, person holding a state office in the executive branch of state government, employee of the executive branch of state government, or other person has committed a violation of this chapter or chapter 56 or rules adopted by the board. The board shall prescribe and provide forms for this purpose. A complaint must include the name and address of the complainant, 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 board staff shall review the complaint to determine if the complaint is sufficient as to form. If the complaint is deficient as to form, the complaint shall be returned to the complainant with a statement of the deficiency and an explanation describing how the deficiency may be cured. If the complaint is sufficient as to form, the complaint shall be referred for legal review.

3. Unless the chairperson of the board concludes that immediate notification would prejudice a preliminary investigation or subject the complainant to an unreasonable risk, the board shall mail a copy of the complaint to the subject of the complaint within three working days of the acceptance of the complaint. If a determination is made by the chairperson not to mail a copy of the complaint to the subject of the complaint within the three working days time period, the board shall approve and establish the time and conditions under which the subject will be informed of the filing and contents of the complaint.

4. Upon completion of legal review, the chairperson of the board shall be advised whether, in the opinion of the legal advisor, the complaint states an allegation which is legally sufficient. A legally sufficient allegation must allege all of the following:

a. Facts that would establish a violation of a provision of this chapter, chapter 56, or rules adopted by the board.

b. Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.

c. Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

5. After receiving an evaluation of the legal sufficiency of the complaint, the chairperson shall refer the complaint to the board for a formal determination by the board of the legal sufficiency of the allegations contained in the complaint.

6. If the board determines that none of the allegations contained in the complaint are legally sufficient, the complaint shall be dismissed. The complainant shall be sent a notice of dismissal stating the reason or reasons for the dismissal. If a copy of the complaint was sent to the subject of the complaint, a copy of the notice shall be sent to the subject of the complaint. If the board determines that any allegation contained in the complaint is legally sufficient, the complaint shall be referred to the board staff for investigation of any legally sufficient allegations.

7. Notwithstanding subsections 1 through 6, the board may, on its own motion and without the filing of a complaint by another person, initiate investigations into matters that the board believes may be subject to the board's jurisdiction. This section does not preclude persons from providing information to the board for possible board-initiated investigation instead of filing a complaint.

8. The purpose of an investigation by the board's staff is to determine whether there is probable cause to believe that there has been a violation of this chapter or of rules adopted by the board. To facilitate the conduct of investigations, the board may issue and seek enforcement of subpoenas requiring the attendance and testimony of witnesses and subpoenas requiring the production of books, papers, records, and other real evidence relating to the matter under investigation. Upon the request of the board, an appropriate county attorney or the attorney general shall assist the staff of the board in its investigation.

9. If the board determines on the basis of an investigation by board staff that there is probable cause to believe the existence of facts that would establish a violation of this chapter, or of rules adopted by the board, the board may issue a statement of charges and notice of a contested case proceeding to the complainant and to the person who is the subject of the complaint, in the manner provided for the issuance of statements of charges under chapter 17A. If the board determines on the basis of an investigation by staff that there is no probable cause to believe that a violation has occurred, the board shall close the investigation, dismiss any related complaint, and the subject of the complaint shall be notified of the dismissal. If the investigation originated from a complaint filed by a person other than the board, the person making the complaint shall also be notified of the dismissal.

10. At any stage during the investigation or after the initiation of a contested case proceeding, the board may approve a settlement regarding an alleged violation. Terms of a settlement shall be reduced to writing and be available for public inspection. An informal settlement may provide for any remedy specified in section 68B.32D. However, the board shall not approve a settlement unless the board determines that the terms of the settlement are in the public interest and are consistent with the purposes of this chapter and rules of the board. In addition, the board may authorize board staff to seek informal voluntary compliance in routine matters brought to the attention of the board or its staff.

11. A complaint shall be a public record, but some or all of the contents may be treated as confidential under section 22.7, subsection 18, to the extent necessary under subsection 3.

Information informally reported to the board and board staff which results in a board-initiated investigation shall be a public record but may be treated as confidential information consistent with the provisions of section 22.7, subsection 18. If the complainant, the person who provides information to the board, or the person who is the subject of an investigation publicly discloses the existence of an investigation, the board may publicly confirm the existence of the disclosed formal complaint or investigation and, in the board's discretion, make the complaint or the informal referral public, as well as any other documents that were issued by the board to any party to the investigation. However, investigative materials may be furnished to the appropriate law enforcement authorities by the board at any time. Upon the commencement of a contested case proceeding by the board, all investigative material relating to that proceeding shall be made available to the subject of the proceeding. The entire record of any contested case proceeding initiated under this section shall be a public record.

12. Board records used to achieve voluntary compliance to resolve discrepancies and deficiencies shall not be confidential unless otherwise required by law.

Sec. 17. NEW SECTION. 68B.32C CONTESTED CASE PROCEEDINGS.

1. Contested case proceedings initiated as a result of the issuance of a statement of charges pursuant to section 68B.32B, subsection 9, shall be conducted in accordance with the requirements of chapter 17A. Clear and convincing evidence shall be required to support a finding that a person has violated this chapter or any rules adopted by the board pursuant to this chapter. A preponderance of the evidence shall be required to support a finding that a person has violated chapter 56 or any rules adopted by the board pursuant to chapter 56. The case in support of the statement of charges shall be presented at the hearing by one of the board's attorneys or staff unless, upon the request of the board, the charges are prosecuted by another legal counsel designated by the attorney general. A person making a complaint under section 68B.32B, subsection 1, is not a party to contested case proceedings conducted relating to allegations contained in the complaint.

2. Hearings held pursuant to this chapter shall be heard by a quorum of the board, unless the board designates a board member or an administrative law judge to preside at the hearing. If a quorum of the board does not preside at the hearing, the board member or administrative law judge shall make a proposed decision. The board or presiding board member may be assisted by an administrative law judge in the conduct of the hearing and the preparation of a decision.

3. Upon a finding by the board that the party charged has violated this chapter or rules adopted by the board, the board may impose any penalty provided for by section 68B.32D. Upon a final decision of the board finding that the party charged has not violated this chapter or the rules of the board, the complaint shall be dismissed and the party charged and the original complainant, if any, shall be notified.

4. 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.

5. The board shall adopt rules, pursuant to chapter 17A, establishing procedures to implement this section.

Sec. 18. NEW SECTION. 68B.32D PENALTIES – RECOMMENDED ACTIONS.

1. The board, after a hearing and upon a finding that a violation of this chapter, chapter 56, or rules adopted by the board has occurred, may do one or more of the following:

a. Issue an order requiring the violator to cease and desist from the violation found.

b. Issue an order requiring the violator to take any remedial action deemed appropriate by the board.

c. Issue an order requiring the violator to file any report, statement or other information as required by this chapter, chapter 56, or rules adopted by the board.

d. Publicly reprimand the violator for violations of this chapter, chapter 56, or rules adopted by the board in writing and provide a copy of the reprimand to the violator's appointing authority.

e. Make a written recommendation to the violator's appointing authority that the violator be removed or suspended from office, and include in the recommendation the length of the suspension.

f. If the violation is a violation of this chapter or rules adopted by the board pursuant to this chapter and the violator is an elected official of the executive branch of state government, other than an official who can only be removed by impeachment, make a written recommendation to the attorney general or the appropriate county attorney that an action for removal from office be initiated pursuant to chapter 66.

g. If the violation is a violation of this chapter or rules adopted by the board pursuant to this chapter and the violator is a lobbyist of the executive branch of state government, censure, reprimand, or impose other sanctions deemed appropriate by the board. A lobbyist may also be suspended from lobbying activities if the board finds that suspension is an appropriate sanction for the violation committed.

h. Issue an order requiring the violator to pay a civil penalty of not more than two thousand dollars for each violation of this chapter, chapter 56, or rules adopted by the board.

i. Refer the complaint and supporting information to the attorney general or appropriate county attorney with a recommendation for prosecution or enforcement of criminal penalties.

2. At any stage during an investigation or during the board's review of routine compliance matters, the board may resolve the matter by admonishment to the alleged violator or by any other means not specified in subsection 1 as a posthearing remedy.

3. If a person fails to comply with an order of the board under subsection 1, paragraphs "a", "b", "c", or "h", the board may petition the district court having jurisdiction for an order for enforcement of the order of the board. The enforcement proceeding shall be conducted as provided in section 68B.33.

Sec. 19. Section 68B.33, Code 1993, is amended to read as follows:

68B.33 JUDICIAL REVIEW — ENFORCEMENT.

Judicial review of the actions of the ~~executive council~~ board may be sought in accordance with chapter 17A. Judicial enforcement of orders of the ~~executive council~~ board may be sought in accordance with chapter 17A.

Sec. 20. Section 68B.34, Code 1993, is amended to read as follows:

68B.34 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.31 ~~or by the executive council as provided in section 68B.32~~. Independent special counsel investigations are not meetings of a governmental body within the meaning of chapter 21, and records and information obtained by independent special counsel during investigations are confidential until disclosed to a legislative ethics committee under section 68B.31.

Sec. 21. Section 68B.35, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

68B.35 PERSONAL FINANCIAL DISCLOSURE -- CERTAIN OFFICIALS, MEMBERS OF THE GENERAL ASSEMBLY, AND CANDIDATES.

1. The persons specified in subsection 2, shall file a financial statement at times and in the manner provided in this section that contains all of the following:

a. A list of each business, occupation, or profession in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.

b. A list of any other sources of income if the source produces more than one thousand dollars annually in gross income. Such sources of income listed pursuant to this paragraph may be listed under any of the following categories, or under any other categories as may be established by rule:

(1) Securities.

(2) Instruments of financial institutions.

(3) Trusts.

(4) Real estate.

(5) Retirement systems.

(6) Other income categories specified in state and federal income tax regulations.

2. The financial statement required by this section shall be filed by the following persons:

a. Any statewide elected official.

b. The executive or administrative head or heads of any agency of state government.

c. The deputy executive or administrative head or heads of an agency of state government.

d. The head of a major subunit of a department or independent state agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds as defined under rules adopted by the board, pursuant to chapter 17A, in consultation with the department or agency.

e. Members of the banking board, the ethics and campaign disclosure board, the credit union review board, the economic development board, the employment appeal board, the environmental protection commission, the health facilities council, the Iowa business investment corporation board of directors, the Iowa finance authority, the Iowa product development corporation, the Iowa public employees' retirement system investment board, the lottery board, the natural resource commission, the board of parole, the petroleum underground storage tank fund board, the public employment relations board, the state racing and gaming commission, the state board of regents, the tax review board, the transportation commission, the office of consumer advocate, the utilities board, and any full-time members of other boards and commissions as defined under section 7E.4 who receive an annual salary for their service on the board or commission.

f. Members of the general assembly.

g. Candidates for state office.

h. Legislative employees who are the head or deputy head of a legislative agency or whose position involves a substantial exercise of administrative discretion or the expenditure of public funds.

3. The board in consultation with each executive department or independent agency, shall adopt rules pursuant to chapter 17A to implement the requirements of this section that provide for the time and manner for the filing of financial statements by persons in the department or independent agency.

4. The ethics committee of each house of the general assembly shall recommend rules for adoption by each house for the time and manner for the filing of financial statements by members or employees of the particular house. The legislative council shall adopt rules for the time and manner for the filing of financial statements by legislative employees of the central legislative staff agencies. The rules shall provide for the filing of the financial statements with either the chief clerk of the house, the secretary of the senate, or other appropriate person or body.

5. A candidate for statewide office shall file a financial statement with the ethics and campaign disclosure board, a candidate for the office of state representative shall file a financial

statement with the chief clerk of the house of representatives, and a candidate for the office of state senator shall file a financial statement with the secretary of the senate concerning the year preceding the year in which the election is to be held and concerning so much of the year in which the election is to be held as has elapsed by the date specified in section 43.11 for the filing of nomination papers for state office. The statement shall be filed no later than thirty days after the date on which a person is required to file nomination papers for state office under section 43.11. The ethics and campaign disclosure board shall adopt rules pursuant to chapter 17A providing for the filing of the financial statements with the board and for the deposit, retention, and availability of the financial statements. The ethics committees of the house of representatives and the senate shall recommend rules for adoption by the respective house providing for the filing of the financial statements with the chief clerk of the house or the secretary of the senate and for the deposit, retention, and availability of the financial statements.

Sec. 22. NEW SECTION. 68B.35B PERSONAL FINANCIAL DISCLOSURE STATEMENTS OF STATE OFFICIALS AND EMPLOYEES.

Personal financial disclosure statements filed with the board, chief clerk of the house, and the secretary of the senate shall be forwarded to the secretary of state for the recording of the information through electronic means. The board and the general assembly shall execute agreements with the secretary of state which provide for public access to and copying of the information, and include a site in the board offices for public viewing and copying of information, contained in personal financial disclosure statements filed with the board, the chief clerk of the house, and the secretary of the senate.

Sec. 23. Section 68B.36, subsections 1 and 3, Code 1993, are amended to read as follows:

1. All lobbyists shall, on or before the day their lobbying activity begins, register by filing a lobbyist's registration statement at times and 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~~ board. 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~~ board 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.~~

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~~ board may adopt and implement a reasonable preregistration procedure in advance of each new calendar year during which persons may register for that year.

Sec. 24. Section 68B.37, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

68B.37 LOBBYIST REPORTING.

1. A lobbyist before the general assembly shall file with the general assembly, on forms prescribed by each house of the general assembly, a report disclosing all of the following:

a. The lobbyist's clients.

b. Campaign contributions made by the lobbyist during calendar months during the reporting period when the general assembly is not in session.

c. The recipient of the campaign contributions.

d. Expenditures made by the lobbyist for the purposes of providing the services enumerated under section 68B.2, subsection 12, paragraph "a".

For purposes of this subsection, "expenditures" do not include expenditures made by any organization for publishing a newsletter or other informational release for its members.

2. A lobbyist before a state agency or the office of the governor shall file with the board, on forms prescribed by the board, a report disclosing the same items described in subsection 1.

3. The reports by lobbyists before the general assembly shall be filed not later than twenty-five days following any month in which the general assembly is in session and thereafter on or before July 31 and October 31. The monthly report filed by a lobbyist before the general assembly in January shall contain information for the preceding calendar quarter or parts thereof during which the person was engaged in lobbying. Reports filed by lobbyists before a state agency shall be filed on or before April 30, July 31, October 31, and January 31, for the preceding calendar quarter or parts thereof during which the person was engaged in lobbying. If a person cancels the person's lobbyist registration at any time during the calendar year, the reports required by this section are due on the dates required by this section or fifteen days after cancellation, whichever is earlier. The report due January 31 shall include all reportable items for the preceding calendar year in addition to containing the quarterly reportable items. A lobbyist who cancels the person's lobbyist registration before January 1 of a year shall file a report listing all reportable items for the year in which the cancellation was filed. A lobbyist who cancels the person's lobbyist registration between January 1 and January 15 of a year shall file a report listing all reportable items for the preceding year and so much of the month of January as has expired at the time of cancellation. However, if a lobbyist is a person who is designated to represent the interest of an organization as defined in section 68B.2, subsection 12, paragraph "a", subparagraph (2), but is not paid compensation for that representation and does not expend more than one thousand dollars as provided in section 68B.2, subsection 12, paragraph "a", subparagraph (4), the lobbyist shall only be required to file the report specified in this section once annually, which shall be performed at the time of filing the person's lobbyist registration form or forms.

Sec. 25. Section 68B.38, Code 1993, is amended to read as follows:

68B.38 LOBBYIST'S CLIENT REPORTING.

1. ~~No~~ Beginning in 1994, no later than January 31 and July 31 of each year, unless no payments are made, a lobbyist's client shall file with the general assembly or ~~the executive council~~ board 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~~ salaries, fees, retainers, and reimbursements of expenses paid to the lobbyist for lobbying activities during the preceding calendar year. The secretary of the senate, chief clerk of the house, and the board shall develop forms to implement this section.

Sec. 26. Section 68B.39, Code 1993, is amended to read as follows:

68B.39 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 under this paragraph 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.

The supreme court of this state shall also prescribe rules which relate to activities by officials and employees of the judicial department which constitute conflicts of interest.

Sec. 27. Section 22.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 29. Records and information obtained or held by independent special counsel during the course of an investigation conducted pursuant to section 68B.34. Information that is disclosed to a legislative ethics committee subsequent to a determination of probable cause by independent special counsel and made pursuant to sections 68B.31 or 68B.32 is not a confidential record unless otherwise provided by law.

Sec. 28. Section 56.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Board" means the Iowa ethics and campaign finance board established under section 68B.32.

Sec. 29. Section 56.2, subsection 4, Code 1993, is amended to read as follows:

4. "Candidate's committee" means the committee designated by the candidate for a state, county, city, or school office to receive contributions in excess of five hundred dollars in the aggregate, expend funds in excess of five hundred dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of five hundred dollars in the aggregate ~~as follows:~~

~~a. For federal, state, or county office, in excess of two hundred fifty dollars~~ in any calendar year ~~on behalf of the candidate.~~

~~b. For city or school office, in excess of five hundred dollars in any calendar year on behalf of the candidate.~~

Sec. 30. Section 56.2, subsection 11, Code 1993, 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 adopted by the ~~commission~~ board in accordance with chapter 17A.

Sec. 31. Section 56.5, subsections 3 and 5, Code 1993, are amended to read as follows:

3. Any change in information previously submitted in a statement of organization or notice in case of dissolution of the committee shall be reported to the ~~commission~~ board or commissioner not more than thirty days from the date of the change or dissolution.

5. A committee not domiciled in Iowa which makes a contribution to a candidate's committee or political committee domiciled in Iowa shall disclose each contribution to the ~~commission~~ board. A committee not domiciled in Iowa which is not registered and filing full disclosure reports of all financial activities with the federal election commission or another state's disclosure commission shall register and file full disclosure reports with the ~~commission~~ board pursuant to this chapter. A committee which is currently filing a disclosure report in another jurisdiction shall either file a statement of organization under subsections 1 and 2 and file disclosure reports, the same as those required of Iowa-domiciled committees, under section 56.6, or shall file one copy of a verified statement with the ~~commission~~ board and a second copy with the treasurer of the committee receiving the contribution. The form shall be completed and filed at the time the contribution is made. The verified statement shall be on forms prescribed by the ~~commission~~ board. The form shall include the complete name, address, and telephone number of the contributing committee, the state or federal jurisdiction under which it is registered or operates, the identification of any parent entity or other affiliates or sponsors, its purpose, the name and address of an Iowa resident authorized to receive service of original notice and the name and address of the receiving committee, the amount of the cash or in-kind contribution, and the date the contribution was made.

Sec. 32. Section 331.756, subsection 15, Code 1993, is amended to read as follows:

15. Review the report and recommendations of the ~~campaign finance disclosure commission~~ independent ethics and campaign finance board and proceed to institute the recommended actions or advise the ~~commission~~ board that prosecution is not merited as provided in section ~~56.11, subsection~~ 4 68B.32C.

Sec. 33. Sections 56.4, 56.6, 56.13, 56.20, and 56.23, Code 1993, are amended by striking the word "commission" or "campaign finance disclosure commission" and inserting the following: "~~commission~~ board" or "~~campaign finance disclosure commission~~ board".

Sec. 34. Section 56.42, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Contributions to another candidate's committee when the candidate for whom both committees are formed is the same person.

Sec. 35. TRANSITION — INTENT — RETROACTIVE APPLICATION — EFFECTIVE DATE.

1. The provisions of section 4.13 shall apply to this Act except as follows:

a. Requirements relating to registration that are under chapter 68B prior to but not after the effective date of this Act are void and any registrations made pursuant to those requirements shall be given no effect as if never made. Registrations made pursuant to chapter 68B prior to the effective date of this Act, which are consistent with the requirements of this Act shall be in full force and effect, as if made pursuant to the requirements of this Act.

b. Requirements relating to financial disclosure that are imposed under chapter 68B prior to but not after the effective date of this Act are void retroactive to January 1, 1993. Financial disclosures made prior to the effective date of this Act, which are consistent with the requirements of this Act shall be deemed to be in full force and effect, as if made pursuant to the requirements of this Act.

c. Notwithstanding section 68B.5A, subsection 1, as amended by this Act, persons who are lobbyists as of the effective date of this Act, and whose positions in state government are in violation of subsection 1 of section 68B.5A as amended by this Act, may remain in those positions until July 1, 1994.

d. Section 8 of this Act, which amends section 68B.24, shall apply retroactively to any loans made on or after January 1, 1993. Any loans made during the period commencing January 1, 1993, and ending on the effective date of this Act, which are consistent with the requirements of section 8 of this Act shall not be in violation of the requirements of section 68B.24.

e. The portion of section 1 of this Act, amending subsection 16 of section 68B.2 to exclude members of councils or committees as defined under section 7E.4 from the definition of official, shall apply retroactively to January 1, 1993, to exclude those persons from the requirements placed upon officials.

2. Persons who served as governor's appointees to state government entities which are or exercise the same type of authority that is exercised by councils or committees as defined under section 7E.4, prior to January 1, 1993, and who resigned from those positions prior to the effective date of this Act, may be reappointed by the governor, without senate confirmation, to complete the unexpired term resulting from the resignation, section 2.32 notwithstanding.

3. It is the intent of the general assembly that at least two members of the ethics and campaign disclosure board established in this Act be members of the campaign finance disclosure commission, established under section 56.9, immediately prior to the effective date of this Act. However, members of the campaign finance disclosure commission shall serve as members of the ethics and campaign disclosure board until the members of the new board are appointed. Employees of the campaign finance disclosure commission shall be retained as employees of the ethics and campaign disclosure board until such time as the board hires its own employees. Rules and procedures of the campaign finance disclosure commission shall remain in effect until amended or rescinded by the ethics and campaign disclosure board. Matters pending before the campaign finance disclosure commission shall, upon the dissolution of the commission and the creation of the board, be treated as if commenced initially before the ethics and campaign disclosure board and shall retain the same status that the matters had before the commission.

4. Notwithstanding section 68B.35, financial statements filed under section 68B.35 as amended in section 21 of this Act shall not be required to be filed until the rules provided under that section are adopted or prescribed by the entities required to establish rules. Disclosure statements filed during 1993, after the adoption or prescribing of rules under section 21 shall cover the period beginning with the effective date of this Act through December 31, 1993.

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

Sec. 36. Sections 56.9, 56.10, and 56.11, Code 1993, are repealed.

Sec. 37. SEVERABILITY. If any provision of this Act or the application thereof to any person is invalid, the invalidity shall not affect the provisions or application of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Sec. 38. The Code editor shall change names in the Code, as necessary, which refer to the campaign finance disclosure commission to names which refer to the ethics and campaign disclosure board as established in this Act.

Approved May 28, 1993

CHAPTER 164

USE OF ALTERED MOTOR VEHICLE LICENSE TO OBTAIN ALCOHOL

H.F. 210

AN ACT establishing a criminal offense and providing for a six-month suspension of the driver's license of a person under the age of twenty-one who uses an altered license to purchase alcohol.

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

Section 1. Section 321.189, subsection 6, Code 1993, is amended to read as follows:

6. LICENSES ISSUED TO MINORS. A motor vehicle license issued to a person under twenty-one years of age shall be identical in form to any other motor vehicle license except that the ~~word "minor"~~ words "under twenty-one" shall appear prominently on the face of the license. Upon attaining the age of twenty-one, and upon payment of a one dollar fee, the person shall be entitled to a new motor vehicle license or nonoperator's identification card for the unexpired months of the motor vehicle license or card.

Sec. 2. Section 321.212, subsection 1, paragraph a, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A suspension under section 321.210, subsection 1, paragraph "d", for a violation of section 321.216B shall not exceed six months. As soon as practicable after the period of suspension has expired, but not later than six months after the date of expiration, the department shall expunge information regarding the suspension from the person's driving record.

Sec. 3. NEW SECTION. 321.216B USE OF MOTOR VEHICLE LICENSE BY UNDERAGE PERSON TO OBTAIN ALCOHOL.

A person who is under the age of twenty-one, who alters or displays or has in the person's possession a fictitious or fraudulently altered motor vehicle license and who uses the license to violate or attempt to violate section 123.47 or 123.47A commits a simple misdemeanor. The court shall forward a copy of the conviction or order of adjudication under section 232.47 to the department.

Sec. 4. Section 321.218, subsection 4, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the department receives a record of a conviction of a person under this section but the person's driving record does not indicate what the original grounds of suspension were, the period of suspension under this subsection shall be for a period not to exceed six months.

Sec. 5. Section 321A.17, subsection 5, Code 1993, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under section 321.210, subsection 1, paragraph "d", or section 321.210A, ~~321.216~~ 321.216B, or 321.513, or following a period of suspension under section 321.194, is not required to maintain proof of financial responsibility under this section.

Sec. 6. LEGISLATIVE INTENT. It is the intent of the general assembly that suspensions of the motor vehicle license or nonresident operating privileges of minors under section 321.210, subsection 1, paragraph "d", for a violation of section 321.216B, not be used to raise or otherwise negatively impact the insurance rates of those individuals. While the suspension of a motor vehicle license may serve as a useful deterrent to unlawful possession of alcohol, thereby achieving the effect that the general assembly intends, the general assembly intends that only those suspensions that are a result of moving violations be used as the basis for an increase in a person's premium rate for motor vehicle insurance.

Approved May 28, 1993

CHAPTER 165

MULTIPURPOSE VEHICLE REGISTRATION FEES FOR DISABLED PERSONS

H.F. 409

AN ACT relating to multipurpose vehicle registration fees for disabled persons.

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

Section 1. Section 321.109, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The annual registration fee for a multipurpose vehicle with permanently installed equipment manufactured for and necessary to assist a ~~handicapped~~ disabled person who is either the owner or a member of the owner's household in entry and exit of the vehicle or for a multipurpose vehicle if the vehicle's owner or a member of the vehicle owner's household uses a wheelchair as the only means of mobility shall be ~~seventy-five~~ sixty 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.~~ For purposes of this unnumbered paragraph, "uses a wheelchair" does not include use of a wheelchair due to a temporary injury or medical condition.

Sec. 2. Section 321.124, subsection 3, paragraph h, subparagraph (6), Code 1993, is amended to read as follows:

(6) The annual registration fee for a multipurpose vehicle with permanently installed equipment manufactured for and necessary to assist a ~~handicapped~~ disabled person who is either the owner or a member of the owner's household in entry and exit of the vehicle or for a multipurpose vehicle if the vehicle's owner or a member of the vehicle owner's household uses a wheelchair as the only means of mobility shall be ~~seventy-five~~ sixty 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.~~ For purposes of this subparagraph, "uses a wheelchair" does not include use of a wheelchair due to a temporary injury or medical condition.

Sec. 3. 1993 Iowa Acts, Senate File 232,* sections 17 and 18, are repealed.

Approved May 28, 1993

CHAPTER 166

VICTIM COUNSELORS

S.F. 293

AN ACT relating to the presence of victim counselors in proceedings pertaining to the offense.

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

Section 1. NEW SECTION. 910A.20 PRESENCE OF VICTIM COUNSELORS.

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

a. "Proceedings related to the offense" means any activities engaged in or proceedings commenced by a law enforcement agency, judicial district department of correctional services, or a court pertaining to the commission of a public offense against the victim, in which the victim is present, as well as examinations of the victim in an emergency medical facility due to injuries from the public offense which do not require surgical procedures. "Proceedings related to the offense" includes, but is not limited to, law enforcement investigations, pretrial court hearings, trial and sentencing proceedings, and proceedings relating to the preparation of a presentence investigation report in which the victim is present.

b. "Victim counselor" means a victim counselor as defined in section 236A.1.

2. A victim counselor who is present as a result of a request by a victim shall not be denied access to any proceedings related to the offense.

3. This section does not affect the inherent power of the court to regulate the conduct of discovery pursuant to the Iowa rules of criminal or civil procedure or to preside over and control the conduct of criminal or civil hearings or trials.

Approved May 28, 1993

*Chapter 169 herein

CHAPTER 167

APPROPRIATIONS — ECONOMIC DEVELOPMENT

S.F. 227

AN ACT appropriating funds to the department of economic development, the Wallace technology transfer foundation, INTERNET, state university of Iowa, and Iowa state university of science and technology, establishing the economic development deaf interpreters revolving fund, and eliminating state involvement in INTERNET.

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

Section 1. There is appropriated from the general fund of the state and other designated funds to the department of economic development 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. ADMINISTRATIVE SERVICES DIVISION

a. General administration

For salaries, support, maintenance, miscellaneous purposes, for providing a report to the general assembly not later than January 15, 1994, identifying the total income from sales of advertising in state publications, the publications in which the advertising was placed, and who bought the advertising, and for not more than the following full-time equivalent positions, of which, 1.0 FTE for the advertising sales position and $14,000 is authorized only for the fiscal year beginning July 1, 1993, and ending June 30, 1994:

..... $ 886,000

..... FTEs 23.00

The first $50,000 of receipts from the sale of advertising in state publications shall be retained by the department to offset the cost of the advertising sales position. Amounts collected in excess of $50,000 shall be transferred to the treasurer of state for deposit in the general fund of the state.

b. Primary research and computer center

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 321,000

..... FTEs 5.50

c. Film office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 179,000

..... 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:

..... $ 2,986,000

..... FTEs 16.00

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, business incubators, and eight deaf interpreters funded through the economic development deaf interpreters revolving fund established in section 15.108, subsection 7, paragraph "j":

..... $ 308,000

..... FTEs 13.50

The department shall report to the general assembly regarding the utilization of the deaf interpreters by January 15, 1994, and the department shall coordinate with the division of deaf services in the provision of deaf interpreter services.

c. Federal procurement office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 96,000
..... FTEs 3.00

Notwithstanding section 8.33, moneys remaining unencumbered or unobligated on June 30, 1994, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1994, 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:

..... $ 4,217,000
..... FTEs 10.00

e. Targeted small business incubator

For funding, with local matching funds, the targeted small business incubator in Des Moines:

..... $ 50,000

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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, 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:

..... $ 553,000
..... FTEs 7.50

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

..... $ 345,000
..... FTEs 3.00

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state that remain unexpended on June 30 of the 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 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:

..... $ 348,000
..... FTEs 4.50

There is also appropriated from the rural community 2000 program revolving fund established in section 15.287 to the rural development program for the purposes of the program including the rural enterprise fund and collaborative skills development training:

..... $ 226,338

Notwithstanding section 8.33, moneys committed to grantees under contract from the general fund of the state or through transfers from the Iowa community development loan fund or from the rural community 2000 program revolving 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 the succeeding fiscal year.

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:

..... $ 383,767
..... FTEs 18.75

e. Councils of governments

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 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:

..... $ 178,250

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:

..... $ 569,000
..... FTEs 7.00

b. Foreign trade offices

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 586,000
..... FTEs 3.00

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 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:

..... $ 317,000
..... FTEs 0.25

d. Agricultural product advisory council

For support, maintenance, and miscellaneous purposes:

..... $ 1,330

5. TOURISM DIVISION

a. Tourism operations

For 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:

..... $ 694,000
..... 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:

..... $ 2,437,000

The department shall not use the moneys appropriated in this lettered 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:

..... $ 250,000

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of the 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:

..... $ 954,000
..... FTEs 2.48

Notwithstanding section 8.33, moneys committed to grantees under contract that remain unexpended on June 30 of the 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 260F.6, including salaries and support for not more than the following full-time equivalent positions:

..... $ 761,000
..... FTEs 1.30

There is appropriated from the rural community 2000 program revolving fund established in section 15.287 to the community college job training fund created in section 260F.6, subsection 1, $125,000. It is the intent of the general assembly that up to $100,000 of all funds appropriated to the program and some or all of the FTEs may be used for the administration of the Iowa small business new jobs training Act.

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:

..... $ 477,000
..... FTEs 0.90

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 committed to grantees under contract that remain unexpended at the end of the fiscal year, shall not revert to any fund but shall be available for expenditure for purposes of the contract during the succeeding fiscal year.

d. Labor management councils

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 136,000
..... FTEs 0.50

The department shall not use moneys appropriated in this lettered 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 the 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 15E.89, for not more than the following full-time equivalent positions of which $350,000 shall be used for the Iowa technology assistance program which is transferred from the Wallace technology transfer foundation to the Iowa product development corporation:

..... $ 1,196,000
..... FTEs 6.00

Sec. 2. Notwithstanding section 15E.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, 1993, and ending June 30, 1994, to the department of economic development for the fiscal year beginning July 1, 1993, and ending June 30, 1994, $50,000, or so much thereof as is necessary, to be used for rural development financing; 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.

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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For administration of chapter 260E, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 150,000
..... FTEs 2.40

2. For the target alliance program:

..... $ 30,000

3. For the workforce coordinator:

..... $ 73,000
..... FTEs 1.00

Sec. 4. There is appropriated from the general fund of the state to the Wallace technology transfer foundation for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, and other operational purposes, 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 15E.158, for transferring $50,000 of the funds appropriated in this section to the Iowa quality coalition for productivity enhancement projects, and for not more than the following full-time equivalent positions:

..... $ 2,000,000
..... FTEs 5.00

Sec. 5. There is appropriated from the general fund of the state to INTERNET for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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, on the condition that the INTERNET board and the director of the department of economic development enter into an agreement by July 1, 1993, that the department shall have access to the INTERNET database or other products or information developed by INTERNET, at any time, through the use of state moneys appropriated to INTERNET beginning on July 1, 1994, for the following full-time equivalent positions, provided that $265,000 shall be allocated to the department of economic development for the Iowa international development foundation on the condition that the foundation co-locate with the department for the salaries and support for not more than 2.00 full-time equivalent positions for employees of the department of economic development and for transferring the international development fund into the department, $96,000 shall be allocated to the peace institute which shall expand conflict resolution and negotiation efforts in Iowa's schools and communities and report to the general assembly by January 15, 1994, on all such activities undertaken, and $96,000 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:

..... $ 682,000
..... FTEs 5.00

INTERNET shall use moneys appropriated in this section, unless otherwise specified, for the purposes set out in chapter 15B.

Sec. 6. 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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For funding and maintaining in their current locations the existing small business development centers, and for not more than the following full-time equivalent positions:

..... $ 1,035,000
..... FTEs 5.80

2. For funding the institute for physical research and technology, and for not more than the following full-time equivalent positions:

..... $ 3,215,000
..... FTEs 33.85

Sec. 7. There is appropriated from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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, and for not more than the following full-time equivalent positions:

..... $ 490,000
..... FTEs 6.55

Sec. 8. Notwithstanding other provisions of law to the contrary, $50,000 of the moneys collected in the rural community 2000 revolving fund created in section 15.287 during fiscal year 1993 shall be carried forward and deposited in the economic development deaf interpreters revolving fund created in section 15.108, subsection 7, paragraph "j" on July 1, 1994.

Sec. 9. Section 15.108, subsection 7, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Establish and administer the economic development deaf interpreters revolving fund.

Sec. 10. Section 15E.89, Code 1993, is amended to read as follows:

15E.89 IOWA PRODUCT DEVELOPMENT CORPORATION FUND.

There is created an "Iowa product development corporation fund". All funds of the corporation including the proceeds from the issuance of notes or sale of bonds under this division, any funds appropriated to the corporation, and income derived from other sources from the exercise of powers granted to the corporation under this division shall be paid into the Iowa product development corporation fund notwithstanding section 12.10. The money in the Iowa product development corporation fund, except moneys held by a trustee or a depository pursuant to a bond resolution or indenture relating to the issuance of bonds or notes pursuant to sections 15E.90 or 15E.91, shall be paid out on the order of the person authorized by the corporation. The money in the Iowa product development corporation fund shall be used for repayment of notes and bonds issued under this division and the extension of financial aid granted by the corporation under this division, and the amount remaining may be used for the payment of the administrative and overhead costs of the corporation to the extent required. There is also created in the Iowa product development corporation fund an Iowa technology assistance program account, which shall provide seed capital for the commercialization of products, or the development of processes or materials through research at Iowa colleges and universities or by private industry.

PARAGRAPH DIVIDED. Notwithstanding section 8.33, no part of ~~this~~ the Iowa product development corporation fund shall revert at or after the close of a fiscal year unless otherwise provided by the general assembly, but shall remain in the fund and appropriated for the purposes of this division. The board shall seek to repay the state for appropriations by recommending to the general assembly reversions from income received from successful ventures. The board shall recommend such action at any time when the revenue available to the board is deemed sufficient to continue existing operations.

Sec. 11. Section 15E.152, subsection 7, Code 1993, is amended by striking the subsection.

Sec. 12. Not later than July 1, 1994, the department of economic development, with consultation and input from the general assembly, and representatives from business, labor, and education shall study and present recommendations to the general assembly which shall include but not be limited to the privatization and decentralization of Iowa's economic development efforts, the identification of areas appropriate to statewide economic development efforts and areas appropriate for regional economic development efforts, benchmark budgeting for statewide and regional efforts, the deregulation of economic development activities, and collaboration between public and private entities.

Sec. 13. Chapter 15B, Code 1993, is repealed effective July 1, 1994.

Approved March 29, 1993

CHAPTER 168

FEDERAL BLOCK GRANT APPROPRIATIONS

S.F. 406

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. SUBSTANCE ABUSE 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, 1993, and ending September 30, 1994, the following amount:

..... $ 10,017,948

a. Funds appropriated in 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 XIX, Subtitle B, section 202, which provides for the substance abuse and mental health services administration 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.

b. Of the funds appropriated in this subsection, an amount not exceeding 4.25 percent shall be used by the department for administrative expenses.

c. Of the funds appropriated in this subsection, an amount not exceeding $24,585 shall be used for audits.

2. The funds remaining from the appropriation made in subsection 1 shall be allocated as follows:

a. At least 20 percent of the allocation shall be spent for prevention programs.

b. At least 35 percent of the allocation shall be spent on drug treatment and prevention activities.

c. At least 35 percent of the allocation shall be spent on alcohol treatment and prevention activities.

d. At least 5 percent of the allocation shall be used to increase, from the amount available in fiscal years beginning July 1, 1991, and July 1, 1992, the amount available for treatment services for pregnant women and women with dependent children with provisions that prenatal and child care be provided to those women while they are in treatment.

Sec. 2. COMMUNITY MENTAL HEALTH SERVICES APPROPRIATION.

1. a. There is appropriated from the fund created by section 8.41 to the Iowa department of human services for the federal fiscal year beginning October 1, 1993, and ending September 30, 1994, the following amount:

..... $ 2,047,187

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. 102-321, Title II, Subpart I, section 1911, which provides for the community 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.

b. The administrator of the division of mental health, mental retardation, and developmental disabilities shall allocate not less than 95 percent of the amount of the block grant to eligible community mental health services providers for carrying out the plan submitted to and approved by the federal substance abuse and mental health services administration for the fiscal year involved.

2. An amount not exceeding 5 percent of the funds appropriated in subsection 1 shall be used by the department of human services for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of mental health, mental retardation, and developmental disabilities 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 mental health, mental retardation, and developmental disabilities for the costs of the audits.

Sec. 3. MATERNAL AND CHILD 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, 1993, and ending September 30, 1994, the following amount:

..... $ 6,827,338

a. 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 V, which provides for the maternal and child health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. Of the funds appropriated in this subsection, an amount not exceeding $45,700 shall be used for audits.

c. Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. a. 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.

b. 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. a. 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.

b. 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 provided 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 4, subsection 4 of this Act for the federal fiscal year beginning October 1, 1993, 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. 4. PREVENTIVE HEALTH AND 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, 1993, and ending September 30, 1994, the following amount:

..... $ 1,676,381

a. Funds appropriated in this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 102-531, Title XIX, Subtitle A, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. 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 stipulated by the notice of block grant award shall be allocated to the rape prevention program.

4. Pursuant to Pub. L. No. 102-531 Title XIX, Subtitle A, as amended, 7 percent of the remaining funds appropriated in subsection 1 is transferred within the special fund in the state treasury created by section 8.41, for use by the Iowa department of public health as authorized by Pub. L. No. 97-35, Title V, and section 3 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 healthy people 2000/healthy Iowans 2000 program objectives, preventive health advisory committee, and 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. 5. 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, 1993, and ending September 30, 1994, the following amount:

..... $ 5,040,000

Funds appropriated in 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 in 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. 6. COMMUNITY SERVICES APPROPRIATION.

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, 1993, and ending September 30, 1994, the following amount:

..... $ 4,060,977

a. Funds appropriated in 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 in 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 eligible community action agencies for programs benefiting low-income persons. Each eligible agency shall receive a minimum allocation of no less than $100,000. The minimum allocation shall be achieved by proportionately redistributing increased funds from agencies experiencing a greater share of available funds. The remaining funds shall be distributed on the basis of the poverty-level population in the area represented by the community action agencies compared to the size of the poverty-level population in the state as established by the federal poverty guidelines as published by the United States department of health and human services.

2. An amount not exceeding 4 percent or $155,349, whichever is less, 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. 7. COMMUNITY DEVELOPMENT APPROPRIATION.

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, 1993, and ending September 30, 1994, the following amount:

..... $ 29,500,000

Funds appropriated in 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 in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $1,380,000 for the federal fiscal year beginning October 1, 1993, 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 $690,000 for the federal fiscal year beginning October 1, 1993, of funds appropriated in subsection 1 and a matching contribution from the state equal to $690,000 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. 8. EDUCATION APPROPRIATION.

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, 1993, and ending June 30, 1994, the following amount:

..... $ 4,796,625

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 in 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 $959,325, 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. 9. LOW-INCOME HOME ENERGY ASSISTANCE APPROPRIATION.

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, 1993, and ending September 30, 1994, the following amount:

..... $ 24,584,274

The funds appropriated in 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 in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $2,458,427, 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 $179,966 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, 1994, 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 in subsection 1, $3,500,000 shall be used to fund the affordable heating program.

6. Not more than $1,000,000 of the funds appropriated in subsection 1 shall be used for assessment and resolution of energy problems.

Sec. 10. 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, 1993, and ending September 30, 1994, the following amount:

..... $ 30,860,312

Funds appropriated in 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 in this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than $1,734,720 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, 1993, for the following programs within the department of human services:

a. Field operations:

..... $ 12,189,823

b. Child and family services:

..... $ 14,177,228

c. Child care assistance:

..... $ 1,317,735

d. Local administrative costs and other local services:

..... $ 1,170,281

e. Volunteers:

..... $ 123,441

f. Community-based services:

..... $ 147,084

Sec. 11. 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.

1. 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.

2. 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.

3. The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

Sec. 12. 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. 13. 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, 1993, and ending September 30, 1994, the following amount:

..... $ 3,346,421

Funds appropriated in 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 in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 14. 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, 1993, and ending September 30, 1994, the following amount:

..... $ 7,754,522

Funds appropriated in this section are the funds anticipated to be received from the federal government under Pub. L. No. 101-508, section 5082, which provides for the child care and development block grant. The department shall expend the funds appropriated in this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 15. 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 4, subsection 3 of this Act, for which each block grant is available according to the percentages that each program is to receive as specified in this Act. However, if the governor determines that the funds allocated by the percentages will not be sufficient to effect the purposes of a particular program, or if the appropriation is not allocated by percentage, the governor may allocate the funds in a manner which will effect to the greatest extent possible the purposes of the various programs for which the block grants are available.

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. 16. 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, 5, 7, 8, 10, 11, 12, 13, and 14 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 9 of this Act, 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 6 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 17. PROCEDURE FOR CONSOLIDATED, CATEGORICAL, OR EXPANDED FEDERAL BLOCK GRANTS.

1. Notwithstanding section 8.41, federal funds made available to the state which are authorized for the federal fiscal year beginning October 1, 1993, 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, 1992, as modified by the 1993 Session of the Seventy-fifth General Assembly for the state fiscal year beginning July 1, 1993, compared to the total federal funds received in the federal fiscal year beginning October 1, 1992, 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, 1992, but had anticipated applying for funds during the federal fiscal year beginning October 1, 1993, the governor may allocate the funds in order to provide funding.

2. 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, 1992, 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, 1992, 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, 1992. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

3. 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, 1992, 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. 18. 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, 1993, and ending June 30, 1994, 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. 19. 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, 1993, and ending June 30, 1994, 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. 20. 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, 1993, and ending June 30, 1994, 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. 21. 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, 1993, and ending June 30, 1994, 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. 22. 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, 1993, and ending June 30, 1994, 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. 23. 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, 1993, and ending June 30, 1994, 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. 24. 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, 1993, and ending June 30, 1994, 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. 25. 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, 1993, and ending June 30, 1994, 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. 26. 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, 1993, and ending June 30, 1994, 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. 27. 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, 1993, and ending June 30, 1994, 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. 28. 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, 1993, and ending June 30, 1994, 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. 29. 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, 1993, and ending June 30, 1994, 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. 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, 1993, and ending June 30, 1994, 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. OFFICES 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, 1993, and ending June 30, 1994, are appropriated to the offices 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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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. 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, 1993, and ending June 30, 1994, 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. 38. 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, 1993, and ending June 30, 1994, 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. 39. 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, 1993, and ending June 30, 1994, 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. 40. 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, 1993, and ending June 30, 1994, 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. 41. 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, 1993, and ending June 30, 1994, 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. 42. 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, 1993, and ending June 30, 1994, 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. 43. 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, 1993, and ending June 30, 1994, 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. 44. OFFICE OF STATE-FEDERAL 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, 1993, and ending June 30, 1994, are appropriated to the office of state-federal relations for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 45. 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, 1993, and ending June 30, 1994, 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. 46. DEPARTMENT OF NATURAL RESOURCES. 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, 1993, and ending June 30, 1994, to the department of natural resources, 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 federal aid pass through and miscellaneous fees, grant number 10064: ..... $ 901,100
2. For natural resources department operations, grant number 10664: ..... $ 354,884
3. For natural resources department operations, grant number 15250: ..... $ 103,694
4. For natural resources department operations, grant number 15605: ..... $ 173,349
5. For resource enhancement and protection fund, grant number 15605: ..... $ 1,000,000
6. For fish and wildlife trust fund, grant number 15605: ..... $ 2,900,000
7. For fish and wildlife trust fund, grant number 15611: ..... $ 1,900,000
8. For natural resources department operations, grant number 15612: ..... $ 36,900
9. For federal aid pass through and miscellaneous fees, grant number 15916: ..... $ 100,000
10. For boat registration fees, grant number 20005: ..... $ 25,000
11. For fish and wildlife trust fund, grant number 20005: ..... $ 200,000
12. For federal aid pass through and miscellaneous fees, grant number 66435: ..... $ 25,000
13. For natural resouces* department operations, grant number 66600: ..... $ 7,941,796
14. For natural resources department operations, grant number 81041: ..... $ 304,857
15. For natural resources department operations, grant number 81050: ..... $ 82,196
16. For natural resources department operations, grant number 81052: ..... $ 29,830

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 natural resources, prior to March 15 of the fiscal year beginning July 1, 1993, and ending June 30, 1994, these grants, receipts, and funds are appropriated to the extent necessary, provided that

*According to enrolled Act

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. 47. DEPARTMENT OF PUBLIC DEFENSE. 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, 1993, and ending June 30, 1994, to the department of public defense, 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 compensation and expense, grant number 12991:
..... $ 8,000

2. For public defense, grant number 12991:
..... $ 6,794,104

3. For national guard facilities improvement fund, grant number 12991:
..... $ 30,080

4. For military operations fund, grant number 12991:
..... $ 100

5. For FEMA calibration and maintenance, grant number 12991:
..... $ 89,186

6. For radiological defense officer training, grant number 83206:
..... $ 61,877

7. For population protection planning, grant number 83211:
..... $ 138,000

8. For emergency management training, grant number 83403:
..... $ 10,000

9. For federal hazmat training, grant number 83403:
..... $ 6,600

10. For emergency management training, grant number 83403:
..... $ 106,000

11. For emergency management division, grant number 83503:
..... $ 183,064

12. For EMA federal pass through funds, grant number 83503:
..... $ 639,691

13. For Title III hazmat training fund, grant number 83504:
..... $ 10,000

14. For emergency management division, grant number 83505:
..... $ 15,000

15. For facilities survey program, grant number 83509:
..... $ 60,000

16. For emergency operations center, grant number 83512:
..... $ 60,000

17. For HQ STARC armory, grant number 83512:
..... $ 50,000

18. For halloween ice storm, grant number 83516:
..... $ 3,014,500

19. For federal number 879 July-August flood - 1990, grant number 83516: ..... $ 152,632

20. For federal number 911 flood disaster - 1991, grant number 83516:
..... $ 219,637

21. For federal number 868 flood (June 1990), grant number 83516:
..... $ 1,520,130

22. For hazard-training assistance fund, grant number 83519:
..... $ 9,000

23. For hazard mitigation, grant number 83519:

..... $ 916,598

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 expediture by the department of public defense, prior to March 15 of the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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. 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:

..... $ 200,000

2. For the fire marshal, grant number 14000:

..... $ 12,000

3. For the division of criminal investigation, grant number 16000:

..... $ 82,000

4. For the highway patrol, grant number 20600:

..... $ 532,053

5. For highway safety, grant number 20600:

..... $ 1,558,000

6. For marijuana control, grant number 16580:

..... $ 50,000

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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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:

..... $ 302,356

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:

..... $ 265,434

6. For administration and support, grant number 13283:

..... $ 78,500

7. For administration and support, grant number 13110:
. . . . . $ 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:
. . . . . $ 179,049
11. For administration and support, grant number 66032:
. . . . . $ 47,000
12. For administration and support, grant number 66701:
. . . . . $ 97,500
13. For health protection, grant number 87001:
. . . . . $ 33,478
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:
. . . . . $ 30,185,832
19. For family and community health, grant number 13118:
. . . . . $ 342,096
20. For family and community health, grant number 13217:
. . . . . $ 450,641
21. For family and community health, grant number 13283:
. . . . . $ 48,255
22. For family and community health, grant number 13994:
. . . . . $ 6,752,824
23. For family and community health, grant number 93991:
. . . . . $ 255,987
24. For health protection, grant number 13000:
. . . . . $ 281,116
25. For health protection, grant number 13103:
. . . . . $ 15,885
26. For health protection, grant number 13136:
. . . . . $ 16,400
27. For health protection, grant number 13161:
. . . . . $ 77,624
28. For health protection, grant number 13283:
. . . . . $ 545,721
29. For health protection, grant number 66032:
. . . . . $ 171,469
30. For health protection, grant number 66701:
. . . . . $ 142,229
31. For health protection, grant number 66702:
. . . . . $ 139,905
32. For health protection, grant number 90001:
. . . . . $ 228,178

33. For health protection, grant number 93116:
..... $ 39,270
34. For health protection, grant number 93118:
..... $ 925,890
35. For health protection, grant number 93268:
..... $ 307,516
36. For HIV care grant, grant number 93917:
..... $ 110,588
37. For health protection, grant number 93977:
..... $ 325,063
38. For health protection, grant number 93991:
..... $ 270,716
39. For local health, grant number 13130:
..... $ 90,536
40. For local health, grant number 13987:
..... $ 52,340
41. For local health, grant number 93913:
..... $ 50,000
42. For local health, grant number 93991:
..... $ 233,984
43. For substance abuse, grant number 13279:
..... $ 84,608
44. For substance abuse, grant number 13283:
..... $ 28,882
45. For substance abuse, grant number 13992:
..... $ 275,508
46. For substance abuse, grant number 84186:
..... $ 28,191
47. For substance abuse, grant number 93991:
..... $ 302,372
48. For substance abuse program grants, grant number 13902:
..... $ 261,956
49. For substance abuse program grants, grant number 13992:
..... $ 9,580,069
50. For substance abuse program grants, grant number 84186:
..... $ 1,088,335
51. For substance abuse program grants, grant number 93902:
..... $ 650,468

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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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:
..... $ 92,340,228

2. For the alcohol and drug abuse block grant, grant number 13992: ..... $ 2,000,000
3. For the child abuse project, grant number 93643: ..... $ 171,347
4. For the child abuse project, grant number 93656: ..... $ 149,342
5. For the child abuse project, grant number 93669: ..... $ 280,024
6. For child and family services, grant number 93659: ..... $ 2,902,294
7. For child and family services, grant number 93645: ..... $ 3,100,000
8. For child and family services, grant number 93658: ..... $ 6,737,411
9. For child and family services, grant number 93667: ..... $ 14,689,272
10. For child and family services, grant number 93778: ..... $ 13,444,838
11. For child care services, grant number 93020: ..... $ 4,027,300
12. For child care services, grant number 93037: ..... $ 6,729,002
13. For child care services, grant number 93667: ..... $ 1,365,329
14. For child support recoveries, grant number 93023: ..... $ 13,155,081
15. For the commodity supplemental food program, grant number 10565: ..... $ 312,671
16. For community-based services, grant number 93667: ..... $ 147,084
17. For developmental disabilities planning council, grant number 93630: ..... $ 556,066
18. For emergency assistance, grant number 93020: ..... $ 883,750
19. For field operations, grant number 10561: ..... $ 4,914,269
20. For field operations, grant number 93037: ..... $ 98,600
21. For field operations, grant number 93658: ..... $ 4,183,407
22. For field operations, grant number 93659: ..... $ 446,081
23. For field operations, grant number 93020: ..... $ 6,667,484
24. For field operations, grant number 93026: ..... $ 125,537
25. For field operations, grant number 93778: ..... $ 5,358,055
26. For general administration, grant number 10561: ..... $ 3,261,603
27. For general administration, grant number 13630: ..... $ 211,486

28. For general administration, grant number 13658:
..... $ 966,262
29. For general administration, grant number 13667:
..... $ 1,844,952
30. For general administration, grant number 13675:
..... $ 472,850
31. For general administration, grant number 93667:
..... $ 12,630,089
32. For general administration, grant number 93672:
..... $ 57,507
33. For general administration, grant number 13673:
..... $ 14,281
34. For general administration, grant number 93020:
..... $ 2,381,459
35. For general administration, grant number 93021:
..... $ 123,839
36. For general administration, grant number 93023:
..... $ 2,077,670
37. For general administration, grant number 93026:
..... $ 177,150
38. For general administration, grant number 93778:
..... $ 3,872,679
39. For Glenwood state hospital-school, grant number 72001:
..... $ 225,689
40. For Glenwood state hospital-school, grant number 72002:
..... $ 16,239
41. For Glenwood state hospital-school, grant number 72008:
..... $ 1,305
42. For independent living, grant number 93674:
..... $ 481,440
43. For the Iowa refugee service center, grant number 93026:
..... $ 2,945,023
44. For local administrative costs, grant number 10561:
..... $ 696,275
45. For local administrative costs, grant number 93037:
..... $ 145,148
46. For local administrative costs, grant number 93658:
..... $ 600,618
47. For local administrative costs, grant number 93659:
..... $ 62,842
48. For local administrative costs, grant number 93667:
..... $ 1,170,281
49. For local administrative costs, grant number 93020:
..... $ 921,987
50. For local administrative costs, grant number 93026:
..... $ 17,242
51. For local administrative costs, grant number 93778:
..... $ 1,166,745
52. For medical assistance, grant number 93026:
..... $ 800,300
53. For medical assistance, grant number 93778:
..... $ 676,075,018

54. For medical contracts, grant number 93778:
..... $ 13,277,650
55. For mental health services for the homeless, grant number 13645:
..... $ 150,000
56. For mental health services for the homeless, grant number 93244:
..... $ 300,000
57. For mental health training, grant number 93244:
..... $ 462,765
58. For promise jobs, grant number 10561:
..... $ 129,985
59. For promise jobs, grant number 93020:
..... $ 3,966,147
60. For promise jobs, grant number 93021:
..... $ 7,589,845
61. For refugee resettlement, grant number 13787:
..... $ 122,155
62. For refugee resettlement, grant number 93026:
..... $ 147,346
63. For temporary and emergency food assistance, grant number 13226: ..... $ 382,000
64. For medicare/medicaid, grant number 13773:
..... $ 100,000
65. For volunteers, grant number 93667:
..... $ 127,900
66. For X-PERT, grant number 93020:
..... $ 687,112

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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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:
..... $ 9,600,000
2. For the job training partnership Act, grant number 17250:
..... $ 24,200,000
3. For the procurement office, grant number 12600:
..... $ 86,300
4. For the state occupational information coordinating council, grant number 17000: ..... $ 389,000
5. For the emergency shelter grants program, grant number 14228:
..... $ 479,000
6. For the small business programs, grant number 59045:
..... $ 162,800
7. For economic development administration, grant number 11305:
..... $ 72,000

8. For youth work force conservation corps, grant number 10663:
..... $ 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 department of economic development prior to March 15 of the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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 the primary road fund, grant number 20205:
..... $ 209,800,000

2. For public transit assistance (section 8, technical assistance), grant number 20205: ..... $ 168,000

3. For public transit assistance, grant number 20507:
..... $ 2,336,000

4. For public transit assistance (section 18, rural transit), grant number 20509: ..... $ 1,819,000

5. For public transit assistance (section 16(b)2, elderly and handicapped), grant number 20513: ..... $ 644,000

6. For airport improvement projects, grant number 20106:
..... $ 100,000

7. For the motor vehicle division, grant number 20217:
..... $ 929,000

8. For railroad and aviation assistance, grant number 20308:
..... $ 486,000

9. For national highway traffic safety, grant number 20600:
..... $ 30,000

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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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 93118:
..... $ 210,067

3. For asbestos abatement, grant number 66702:
..... $ 14,850

4. For bilingual education, grant number 84003:
..... $ 75,000
5. For the Byrd scholarship program, grant number 84185:
..... $ 113,950
6. For school food service, grant number 10558:
..... $ 4,100,000
7. For civil rights, grant number 84004:
..... $ 321,750
8. For drug-free schools and communities, grant number 84186:
..... $ 4,119,243
9. For education consolidation and improvement, grant number 84009: ..... $ 725,000
10. For education consolidation and improvement, grant number 84010: ..... $ 42,000,000
11. For education consolidation and improvement, grant number 84012: ..... $ 476,896
12. For education of the handicapped, grant number 84173:
..... $ 4,300,000
13. For education of the handicapped, grant number 84181:
..... $ 1,200,000
14. For educational consolidation and improvement, grant number 84151: ..... $ 4,919,095
15. For the federal Education for Economic Success Act, Title II, grant number 84164: ..... $ 1,671,748
16. For emergency immigrant education, grant number 84162:
..... $ 33,405
17. For handicapped education, grant number 84025:
..... $ 80,000
18. For handicapped education, grant number 84027:
..... $ 25,040,354
19. For handicapped personnel preparation, grant number 84029:
..... $ 80,000
20. For homeless children and adults, grant number 84196:
..... $ 189,703
21. For the independent living project, grant number 84169:
..... $ 160,000
22. For leadership in education, grant number 84178:
..... $ 70,508
23. For mine health and safety, grant number 17600:
..... $ 80,000
24. For the national diffusion network, grant number 84073:
..... $ 99,380
25. For school food service, grant number 10553:
..... $ 1,300,000
26. For school food service, grant number 10559:
..... $ 300,000
27. For school food service, grant number 10560:
..... $ 750,000
28. For school food service, grant number 10555:
..... $ 46,500,000
29. For school food service, grant number 10556:
..... $ 200,000

30. For supportive employment services, grant number 84187:
..... $ 276,434
31. For veterans education, grant number 64111:
..... $ 183,838
32. For vocational education, grant number 84048:
..... $ 8,113,419
33. For vocational education, grant number 84049:
..... $ 110,000
34. For vocational education council, grant number 84053:
..... $ 151,477
35. For vocational rehabilitation, grant number 84126:
..... $ 12,878,310
36. For rehabilitation training, grant number 84129:
..... $ 64,787
37. For vocational rehabilitation — disability determination services, grant number 13802: ..... $ 7,334,195
38. For vocational rehabilitation — state supplementary assistance, grant number 13625: ..... $ 268,394
39. For even start, grant number 84213:
..... $ 525,623
40. For headstart collaborative grant, grant number 93600:
..... $ 100,000
41. For serve America program, grant number 94001:
..... $ 159,048
42. For state library, grant number 84034:
..... $ 1,165,037
43. For state library, grant number 84035:
..... $ 278,387
44. For vocational education administration, grant number 84048:
..... $ 469,544
45. For state library, grant number 84154:
..... $ 200,000
46. For transition services, grant number 84158:
..... $ 497,514
47. For vocational education act, grant number 84174:
..... $ 255,000

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 education prior to March 15 of the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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. LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM. It is the intent of the general assembly to maintain the low-income home energy assistance program at funding levels that are equal to the amount of federal grants awarded to the state but not received. The department of management and the department of revenue and finance may transfer from any unencumbered moneys in the health insurance premium reserve fund an amount sufficient

to maintain the program funding levels until federal reimbursement is made available. Any amounts so transferred shall be returned to the source of the transfer on or before October 4, 1993.

Sec. 55. Sections 17 and 54 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 2, 1993

CHAPTER 169

APPROPRIATIONS — TRANSPORTATION AND SAFETY

S.F. 232

***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, and relating to abstract fees for operating records and to registration fees for certain multipurpose vehicles and handicapped parking signs and providing effective dates.

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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

.....	$	857,297
.....	FTEs	23.95

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, 1993, and ending June 30, 1994, 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:

.....	$	3,732,034
.....	FTEs	209.26

When necessary, the military division is authorized to incur up to an additional $500,000 in expenditures as long as the cash balance of the state for the fiscal year is zero or greater within 60 days after the closing of the fiscal year.

The department of public defense shall not eliminate any fire fighter positions at the Des Moines international airport except through attrition. The department may use funds appropriated in this lettered paragraph to fund fire fighter positions not funded under the agreement on fire fighters between the federal government, the department, and the Des Moines international airport.

It is the intent of the general assembly that $21,500 of the appropriation made in this subsection shall be allocated to the veterans affairs administration of the commission on veterans affairs to be used for the computerization of veterans' records. The commission on veterans

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

**Item veto; see message at end of the Act

affairs shall be authorized one additional FTE for the fiscal year beginning July 1, 1993, and ending June 30, 1994, to computerize veterans' records.

2. EMERGENCY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	290,315
	FTEs	10.00

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, 1993, and ending June 30, 1994, 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:

	$	2,180,851
	FTEs	41.00

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:

	$	6,949,660
	FTEs	141.00

It is the intent of the general assembly that the department of public safety shall only employ additional full-time equivalent positions for riverboat gambling enforcement as authorized by the department of management as needed for enforcement on new riverboats. The department of management shall not authorize more than 5.0 FTE positions per riverboat.

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:

	$	2,119,406
	FTEs	39.00

b. Undercover purchases:

	$	139,202

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:

	$	1,345,773
	FTEs	30.00

5. For the capitol security division, and for not more than the following full-time equivalent positions:

	$	1,095,486
	FTEs	27.00

6. For use by the department to provide law enforcement officials for project D.A.R.E. (drug abuse resistance education) within local communities:

	$	28,903

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, 1993, and ending June 30, 1994, 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:

..... $ 31,228,834
..... FTEs 540.50

a. It is the intent of the general assembly that $390,000 of the appropriation in this subsection shall be used solely for funding 6.00 FTE positions within the state patrol. Any of the $390,000 which remains unobligated or unencumbered on June 30, 1994, shall revert to the road use tax fund on August 30, 1994.

b. 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.

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 who retires after the effective date of this Act but prior to June 30, 1994, 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 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

3. 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 pursuant to section 423.7 prior to their deposit in the road use tax fund pursuant to section 423.24, subsection 1, to the department of public safety for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. For costs associated with the maintenance of the automated fingerprint information system (AFIS):

..... $ 191,905

2. 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:

..... $ 287,766
..... 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, 1993, and ending June 30, 1994, 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 43:

..... $ 570,000

2. For salaries, support, maintenance, and for miscellaneous purposes:

a. Administrative services:

..... $ 3,904,600

The legislative fiscal bureau shall annually update the legislative oversight report to be distributed to the joint appropriations subcommittee on transportation and safety. The report shall be with the assistance of the department and shall include, but not 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.

b. General counsel:

..... $ 184,240

c. Planning and research:

..... $ 350,125

d. Aeronautics and public transit:

..... $ 253,530

e. Motor vehicles:

..... $ 20,650,237

f. Rail and water:

..... $ 647,700

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 of the state for indirect cost recoveries:

..... $ 120,000

7. For reimbursement of audit expenses as provided in section 11.5B:

..... $ 32,480

8. For paving and grading necessary to replace the scales at Missouri Valley:

..... $ 175,000

The provisions of section 8.33 do not apply to the funds appropriated by this subsection. The funds shall remain available for expenditure for the purposes designated until June 30, 1997. Unencumbered and unobligated funds remaining on June 30, 1997, from the funds appropriated in this subsection shall revert to the fund from which appropriated on August 30, 1997.

Sec. 7. There is appropriated from the primary road fund to the state department of transportation 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. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

a. Administrative services:

..... $ 25,683,900

..... FTEs 321.50

b. General counsel:

..... $ 1,131,760

..... FTEs 7.00

c. Planning and research:

..... $ 6,754,375

..... FTEs 158.00

d. Aeronautics and public transit:

..... $ 253,530

..... FTEs 17.00

e. Highways:

..... $ 146,254,770

..... FTEs 2,859.00

The department shall conduct a feasibility study on the privatization of rest area maintenance. The department may issue a request for proposals as part of the study, but shall not award a contract for the maintenance of rest areas until the study has been reported to the general assembly. The results and recommendations from the study shall be reported to the general assembly by January 15, 1994.

f. Motor vehicles:

..... $ 826,239

..... FTEs 549.00

g. Rail and water:

..... $ 273,300

..... FTEs 18.00

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:

..... $ 3,104,000

The appropriation in this subsection is provided on the basis that not more than $3,037,778 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 89.0 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 reimbursement of audit expenses as provided in section 11.5B:

..... $ 199,520

9. For the replacement or modification of field facilities in Blairstown and Rock Rapids:

..... $ 1,700,000

10. For design and installation of an expanded fire alarm system for the Ames complex (Phase I):

..... $ 500,000

11. For improvements, at various locations throughout the state, to comply with the federal Americans with Disabilities Act (Phase I):

..... $ 500,000

*Item veto; see message at end of the Act

The provisions of section 8.33 do not apply to the funds appropriated by subsections 9, 10, and 11. The funds shall remain available for expenditure for the purposes designated until June 30, 1997. Unencumbered or unobligated funds remaining on June 30, 1997, from funds appropriated in these subsections, for the fiscal year beginning July 1, 1993, shall revert to the fund from which appropriated on August 30, 1997.

Sec. 8. There is appropriated from the general fund of the state to the state department of transportation 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. 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 327I:

..... $ 2,110,553

b. For airport engineering studies and improvement projects as provided in chapter 328:

..... $ 2,170,080

2. For aeronautics and public transit, for salaries, support, maintenance, and miscellaneous purposes:

..... $ 401,940

Sec. 9. Notwithstanding section 29A.54, for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the annual allowance for federally recognized general officers of the Iowa army national guard and the Iowa air national guard shall be $825.00.

Sec. 10. 1989 Iowa Acts, chapter 317, section 17, subsection 2, is amended to read as follows:

2. For the replacement of obsolete field facilities in the cities of West Union, Osage, Mount Pleasant, and Oskaloosa:

..... $ ~~2,941,000~~

..... $ 3,017,000

The provisions of section 8.33 do not apply to the funds appropriated by this subsection. Unencumbered or unobligated funds remaining on June 30, ~~1993~~ 1995, from funds appropriated for the fiscal year beginning July 1, 1989, shall revert to the fund from which appropriated on ~~September~~ August 30, ~~1993~~ 1995.

Sec. 11. On July 1, 1993, the unencumbered and unobligated balance of moneys in the erosion control fund administered by the department of transportation which contains the accumulation of the appropriations made pursuant to section 312.2, subsections 9 and 12, Code 1989, shall be transferred to the road use tax fund created in section 312.1 for purposes of that fund.

Sec. 12. Section 8.33 shall not apply to $700,000 of the funds appropriated to the state department of transportation for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in 1992 Iowa Acts, chapter 1238, section 9, subsection 1, paragraph "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 and for use by the railway finance authority as provided in chapter 307B, Code 1991 and Code Supplement 1991.

Sec. 13. Notwithstanding section 307.38, the Des Moines metropolitan transit authority shall be authorized to use $55,000 of the moneys which were to be repaid to the road use tax fund in the fiscal year beginning July 1, 1993, and ending June 30, 1994, pursuant to section 307.38, if the moneys are expended only for matching federal moneys granted for the purchase of new buses. If the moneys are used in accordance with this section, the loan payment amount up to $55,000 for the fiscal year beginning July 1, 1993, and ending June 30, 1994, shall be repaid in the following fiscal year. However, as of June 30, 1994, if the $55,000 has not been used to match federal moneys granted for the purchase of new buses, the moneys shall be allocated to the road use tax fund for reimbursement of the loan due under section 307.38 for the fiscal year beginning July 1, 1993, and ending June 30, 1994.

Sec. 14. ISSUANCE OF MOTOR VEHICLE LICENSES BY COUNTY TREASURERS — PILOT PROJECT.

1. One pilot project shall be established to allow the county treasurers' offices in certain counties to issue motor vehicle licenses, nonoperator's identification cards, and handicapped identification devices. The state department of transportation shall determine the counties to be involved in the project on the basis of the area covered by one of the department's driver's licensing teams.

2. The state department of transportation shall work in conjunction with the county treasurers of the affected counties and with a representative of the Iowa state county treasurers' association to facilitate and implement the transfer of licensing duties and responsibilities to the counties in accordance with all of the following:

a. The department shall retain all administrative authority over licensing functions which shall include administrative procedures relating to cancellation, revocation, or suspension of licenses, including administrative hearings and appeals and training.

b. The department shall provide the county treasurer's office in each of the counties with all of the supplies, materials, and equipment necessary to carry out the provisions of this section.

c. If it is necessary for a county treasurer to hire additional employees, first priority in hiring shall be given to current employees of the state department of transportation who become unemployed due to the changes necessitated by this section.

d. Issuance of motor vehicle licenses by the county treasurers shall include commercial driver's licenses.

e. The county treasurers shall be required to offer extended hours of service to the public in those counties in which pilot projects are established.

3. Notwithstanding the provisions of chapters 321 and 321L which grant sole authority to the department for the issuance of motor vehicle licenses, nonoperator's identification cards, and handicapped identification devices, the county treasurer in each of the counties chosen for the pilot project shall be granted the same authority as is given to the department in relation to the issuance of motor vehicle licenses, nonoperator's identification cards, and handicapped identification devices under chapters 321 and 321L.

Sec. 15. Section 80B.11, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A certified course of instruction provided for under this section which occurs at a location other than at the central training facility of the Iowa law enforcement academy shall not be eliminated by the Iowa law enforcement academy.

Sec. 16. Section 314.21, subsection 3, paragraph b, subparagraph (1), Code 1993, is amended to read as follows:

(1) For the fiscal period beginning July 1, 1989, and ending June 30, ~~1993~~ 1995, fifty thousand dollars in each fiscal year to the university of northern Iowa to maintain the position of the state roadside specialist and to continue its integrated roadside vegetation management pilot program providing research, education, training, and technical assistance.

Sec. 17. Section 321.109, subsection 1, unnumbered paragraph 2, Code 1993, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The annual registration fee for a multipurpose vehicle with handicapped registration plates issued under section 321.34, subsection 7, with a handicapped identification sticker affixed to the registration plates under section 321L.2, subsection 3, or whose owner or a member of the owner's household has been issued a permanent handicapped identification device under section 321L.3, subsection 1, shall be seventy-five dollars for the first through fifth model years and shall be fifty-five dollars for each model year thereafter.

Sec. 18. Section 321.124, subsection 3, paragraph h, subparagraph (6), Code 1993, is amended by striking the subparagraph and inserting in lieu thereof the following:

(6) The annual registration fee for a vehicle with handicapped registration plates issued under section 321.34, subsection 7, with a handicapped identification sticker affixed to the registration plates under section 321L.2, subsection 3, or whose owner or a member of the owner's household has been issued a permanent handicapped identification device under section 321L.3, subsection 1, shall be seventy-five dollars for the first through fifth model years and shall be fifty-five dollars for each model year thereafter.

Sec. 19. Section 321A.3, subsection 1, Code 1993, is amended to read as follows:

1. The department shall upon request furnish any person a certified abstract of the operating record of a person subject to chapter 321, 321J, or this chapter. The abstract shall also fully designate the motor vehicles, if any, registered in the name of the person. If there is no record of a conviction of the person having violated any law relating to the operation of a motor vehicle or of any injury or damage caused by the person, the department shall so certify. A fee of five dollars shall be paid for each abstract except ~~by~~ for state, county, or city ~~or~~ officials, court officials, public transit officials, or other officials of a political subdivision of the state. The department shall transfer the moneys collected under this section to the treasurer of state who shall credit to the general fund all moneys collected.

Sec. 20. Section 321L.6, subsection 3, Code 1993, is amended to read as follows:

3. The handicapped parking sign ~~may~~ shall include a sign stating that the fine for improperly using the handicapped parking space ~~provided under section 321L.4, subsection~~ 2 is fifty dollars.

Sec. 21. EFFECTIVE DATES.

1. Sections 10 and 16 of this Act, being deemed of immediate importance, take effect upon enactment.

2. Section 14 of this Act takes effect January 1, 1994.

Approved April 15, 1993, except those items which I hereby disapprove and which are designated as that portion of Section 2, subsection 1, unnumbered and unlettered paragraph 3 which is herein bracketed in ink and initialed by me and that portion of Section 7, subsection 1, paragraph e which is herein bracketed in ink and initialed by me. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the 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 232, 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, and relating to abstract fees for operating records and to registration fees for certain multipurpose vehicles and handicapped parking signs and providing effective dates.

Senate File 232 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the designated portion of Section 2, subsection 1, unnumbered and unlettered paragraph 3. This provision would restrict the administrative authority of the Department of Public Defense regarding firefighter positions at the Des Moines International Airport. These positions have been reduced due to revised federal staffing standards and corresponding federal funding cuts. The Department of Public Defense must be allowed to maintain its flexibility to respond to federal directives regarding personnel.

I am unable to approve the designated portion of Section 7, subsection 1, paragraph e. This provision would unnecessarily delay an initiative by the Department of Transportation that

is already well underway and has the potential of saving hundreds of thousands of dollars in road use tax funds. These funds are needed to improve the highway transportation system in the state of Iowa. Requests for proposals have already been issued and bids will be evaluated based on both the potential for cost savings and maintenance of a high quality of service.

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 232 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 170

APPROPRIATIONS — HEALTH AND HUMAN RIGHTS

H.F. 429

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, the department of human rights, and the commission of veterans affairs and providing for the elimination of the health data commission 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, 1993, and ending June 30, 1994, 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:

.....	$	1,365,822
.....	FTEs	95.00

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, 1993, and ending June 30, 1994, 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:

.....	$	1,079,335
.....	FTEs	29.00

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, 1993, and ending June 30, 1994, 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:

.....	$	430,656
.....	FTEs	28.50

2. For aging programs and services:

.....	$	2,219,891

All funds appropriated under this subsection shall be received and disbursed by the director of elder affairs for aging programs and services, shall not be used by the department for

administrative purposes, not more than $151,654 shall be used for area agencies on aging administrative purposes, and shall be used for citizens of Iowa over 60 years of age for case management for the frail elderly, mental health outreach, Alzheimer's support, retired senior volunteer program, care review committee coordination, employment, adult day care, respite care, chore, telephone reassurance, information and assistance, 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.

The department shall maintain policies and procedures regarding Alzheimer's support and the retired senior volunteer program. To receive funds appropriated in this subsection, a local area agency on aging shall match the funds with funds from other sources according to rules promulgated by the department.

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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. a. PLANNING AND ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,007,528
..... FTEs 59.25

Of the funds appropriated in this lettered paragraph, $745,139 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.

Hospitals shall not collect fees for birth certificates in excess of the fees as set out in the administrative rules of the Iowa department of public health.

b. PROFESSIONAL LICENSURE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 647,253
..... FTEs 10.50

c. HEALTH DELIVERY SYSTEMS

(1) For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,153,276
..... FTEs 12.00

(2) Of the funds appropriated in this lettered paragraph, $196,436 is allocated for the office of rural health to provide technical assistance to rural areas in the area of health care delivery, including technical assistance in the recruitment of physicians and health care professionals.

(3) Of the funds appropriated in this lettered paragraph, $956,840 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.

(4) The department shall review how medical practice parameters could be implemented in Iowa and report to the general assembly by January 1, 1994.

d. HEALTH DATA COMMISSION

For the health data commission:

..... $ 290,250

The funds appropriated under this lettered 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.

Prior to December 1, 1993, the commission shall submit to the general assembly a useful, comprehensive report for use by members of the general assembly in making informed decisions on public policy issues involving health.

The community health management information system shall report to the general assembly by January 15, 1994, on the cost-effectiveness of the computerized severity of illness data system, implications of severity and outcome data for the community health management information system and health care reform, and the utility of the commission's data for health care purchase decisions.

2. HEALTH PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,251,256
..... FTEs 70.75

b. Of the funds appropriated in this subsection, $77,750 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, $74,547 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.

g. *The department shall maintain or enter into a contract for the administration of the water treatment system testing program pursuant to section 714.16. The department shall establish a separate fund within the department and shall deposit any fees generated by the program pursuant to section 714.16 in the fund. The moneys in the fund shall be used exclusively for carrying out the department's duties under the program. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the moneys in the fund shall be credited to the fund. Notwithstanding section 8.33, any unexpended balance in the fund at the end of any fiscal year shall be retained in the fund.

3. SUBSTANCE ABUSE AND HEALTH PROMOTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 603,620
..... FTEs 23.95

Item veto; see message at end of the Act

The tobacco prevention and control advisory committee shall be eliminated July 1, 1993.

b. For program grants:

..... $ 8,390,159

Of the funds appropriated in this lettered paragraph, $193,500 shall be used for the provision of aftercare services for persons completing substance abuse treatment.

4. FAMILY AND COMMUNITY HEALTH DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,050,505
..... FTEs 66.70

(1) Of the funds appropriated in this lettered paragraph at least $587,865 shall be allocated for the birth defects and genetics counseling program and of these funds, $279,402 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 federal Social Security Act.

(8) The department shall track the appropriations to the programs listed in this lettered paragraph which were made in the fiscal year beginning July 1, 1991, in accordance with the program performance-based budgeting method. The department shall track all appropriations to the programs made to the department in accordance with the program performance-based budgeting method in the fiscal year beginning July 1, 1995.

(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, 1994, 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 and shall submit a progress report to the general assembly by January 1, 1994.

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 home care aide program:

..... $ 8,586,716

Funds appropriated in this lettered paragraph shall be used to provide home care 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 the 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) "Home care 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 home care 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 home care 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 home care 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 home care 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 home care 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 home care 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 home care aide subcontracting agency shall pay the employer's contribution of social security and provide workers' compensation coverage for persons providing direct home care 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 home care 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 home care 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:

(1) The organization shall provide a match in advance of each state dollar provided of four dollars for the fiscal year beginning July 1, 1993.

(2) The organization coordinates services with new or existing public programs and services provided by or funded by appropriate state agencies in an effort to avoid inappropriate duplication of services and ensure access to care to the extent as is reasonably possible. The organization shall work with the Iowa department of public health, family and community health division, to ensure duplication is minimized.

(3) The organization's governing board includes in its membership representatives from the executive and legislative branches of state government.

(4) Grant funds are available as needed to provide services and shall not be used for administrative costs of the department or the grantee.

h. For the healthy family program:

..... $ 665,000

The moneys appropriated under this lettered paragraph shall be granted pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 415. The administrative entities shall work collaboratively to assure continuity of the provision of services from the prenatal to the preschool period to an individual client by having a single resource mother work with that client. The department shall submit an annual report concerning the efficiency of the program and make any recommendations for improvements to the general assembly.

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 256,294
..... 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:

..... $ 966,939
..... 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:

..... $ 867,622
..... 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:

..... $ 636,874
..... FTEs 11.40

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.

10. The state board of medical examiners, the state board of pharmacy examiners, the state board of dental examiners, and the state board of nursing examiners shall retain their individual executive officers, but are strongly encouraged to share administrative, clerical, and investigative staffs to the greatest extent possible.

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, 1993 and ending June 30, 1994, 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:

..... $ 221,698
..... 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:

..... $ 276,874
..... 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:

..... $ 97,853
..... FTEs 2.00

5. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 87,797
..... 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:

..... $ 340,788
..... 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:

..... $ 76,177
..... 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:

..... $ 351,345
..... 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.

9. PROGRAM PERFORMANCE-BASED BUDGETING.

The department shall track all appropriations made to the programs of the department in accordance with the program performance-based budgeting method in the fiscal year beginning July 1, 1995.

Sec. 6. COMMISSION OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the commission of veterans affairs 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. COMMISSION OF VETERANS AFFAIRS ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	145,462
.....	FTEs	4.16

2. WAR ORPHANS

For the war orphans educational aid fund established pursuant to chapter 35:

.....	$	6,000

3. IOWA VETERANS HOME

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

.....	$	32,046,739
.....	FTEs	689.54

a. The Iowa veterans home may use the gifts accepted by the chairperson of the commission of veterans affairs and other resources available to the commission for use at the Iowa veterans home.

b. The commission of veterans affairs 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, 1993, and ending June 30, 1994, the Iowa veterans home 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.

Sec. 7. INTERIM STUDIES — SUBSTANCE ABUSE CARE AND TREATMENT PROGRAM AND DEPARTMENT OF HUMAN RIGHTS.

1. The legislative council is requested to provide for a study of programs and services available in this state for substance abuse care and treatment, the continuum of needs of substance abusers and whether the needs are being met satisfactorily, funding available for substance abuse care and treatment, including federal and state moneys, and payment mechanisms for the care and treatment, including medical assistance and third-party sources of payment, and the limitations of the payment. The study shall include a report to the general assembly, with recommendations to address identified problem areas on or before January 15, 1994.

2. The legislative council is requested to provide for a study of the organizational structure of the department of human rights. The study shall include a report to the general assembly, with identified problem areas, on or before January 15, 1994.

Sec. 8. Section 145.3, subsection 4, paragraph d, Code 1993, is amended to read as follows:

d. Additional or alternative information related to the intent and purpose of this chapter as outlined in section 145.1 be submitted to the commission, except that in no event shall hospitals with fewer than one hundred licensed acute care beds be required to install computerized severity-of-illness systems before July 1, ~~1993~~ 1994. Prior to July 1, 1994, a hospital with one hundred beds or more shall not be required to submit additional data beyond the data required to be submitted from the computerized severity-of-illness system as of January 1, 1993, and such a hospital shall not be required to expend additional moneys beyond the cost of operating a computerized severity-of-illness system as of January 1, 1993.

Sec. 9. NEW SECTION. 145.1A REPEAL.
This chapter is repealed effective July 1, 1994.

Sec. 10. NEW SECTION. 216A.5 REPEAL.
This chapter is repealed effective July 1, 1997.

Approved April 20, 1993, except the item which I hereby disapprove and which is designated as Section 4, subsection 2, paragraph g 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 429, 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, the Department of Human Rights, and the Commission of Veterans Affairs and providing for the elimination of the Health Data Commission and the Department of Human Rights.

House File 429 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 4, subsection 2, paragraph g, in its entirety. This provision would require the Department of Public Health to establish a revolving fund to administer the water treatment testing program. The Department has statutory authority to contract for administration of the program and to charge a fee for that purpose, therefore, creation of a new revolving fund is unnecessary.

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 429 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 171

APPROPRIATIONS — JUSTICE SYSTEM

S.F. 267

AN ACT relating to and making appropriations to the justice system, providing for other related matters concerning the justice system, and providing effective and retroactive applicability dates.

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, 1993, and ending June 30, 1994, 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, and for not more than the following full-time equivalent positions:

	$	4,613,628
	FTEs	169.00

2. Prosecuting attorney training program for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	110,000
	FTEs	4.00

a. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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 established in accordance with 1992 Iowa Acts, chapter 1240, section 1, subsection 2, paragraph "b".

c. The prosecuting attorney training program shall use a portion of the funds appropriated in this subsection for educational purposes to implement the recommendations of the equality in the courts task force.

3. 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, 1993, and ending June 30, 1994, 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, 1993, and ending June 30, 1994, 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:

..... $ 1,359,812

a. 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.

b. 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 and for not more than the following full-time equivalent positions:

..... $ 98,290
..... 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 9.00 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, 1993, and ending June 30, 1994, 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:

..... $ 1,999,524
..... 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, 1993, and ending June 30, 1994, 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:

..... $ 801,421
..... FTEs 17.00

1. 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.

2. 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 appropriations subcommittee on the justice system during the 1994 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.

3. The board of parole shall conduct a study of the parole process to identify and eliminate bias in the parole system based upon race, creed, color, sex, national origin, religion, or disability. The board of parole shall report its findings and recommendations to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau on or before January 15, 1994.

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, 1993, and ending June 30, 1994, 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:

..... $ 24,109,476
..... FTEs 490.50

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:

..... $ 17,797,651
..... FTEs 351.00

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:

..... $ 15,017,948
..... 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:

..... $ 5,100,087
..... 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:

..... $ 12,872,534
..... FTEs 260.23

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:

..... $ 5,184,980
..... FTEs 112.00

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:

..... $ 6,164,753
..... 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:

..... $ 5,918,485
..... FTEs 134.50

The department of corrections shall analyze and compare policies and guidelines concerning inmates at the correctional facilities, and shall propose revisions to the general assembly as necessary to ensure that male and female inmates have comparable opportunities for education, vocational education, and treatment at the state correctional facilities. Where legislative action is not necessary to ensure comparable opportunities, the department shall take administrative action to implement the policies or guidelines needed to accomplish the comparable opportunities mandated by this paragraph. The department shall report the progress on the analysis and comparison of the policies and guidelines, and any changes made, to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau on or before December 15, 1993.

2. The department of corrections shall provide a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the joint appropriations subcommittee on education, the chairpersons and ranking members of the senate and house standing committees on education, and the legislative fiscal bureau on or before January 15, 1994, 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 669 for inmate tort claims of less than $50.

4. The department of corrections shall submit a plan to the general assembly prior to January 1, 1994, to establish in the institutions a mandatory literacy requirement for all inmates. The plan shall include the following:

a. Statistics indicating the current reading and education levels of the average inmate.
b. The funding and number of years necessary for implementation.
c. The feasibility of mandating participation and the need for exemptions.
d. The availability of sanctions and incentives.
e. The special education services for inmates under the age of twenty-one.
f. The continuation of educational programming after release.

5. The department of corrections, in consultation and cooperation with the judicial district departments of correctional services, board of parole, division of criminal and juvenile justice planning of the department of human rights, and any other applicable state agencies, shall provide a report detailing the steps taken to implement the reports of the consultants retained

by the corrections system review task force established by 1988 Iowa Acts, chapter 1271, section 14. The department shall provide the report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1994.

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, 1993, and ending June 30, 1994, 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:

..... $ 2,101,088
..... 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 901.7, 904.908, and 906.17 and for offenders confined pursuant to section 904.513:

..... $ 237,038

3. For federal prison reimbursement, reimbursements for out-of-state placements, and miscellaneous contracts:

..... $ 341,334

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:

..... $ 374,385
..... 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:

..... $ 3,188,273

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, 1993, and ending June 30, 1994, 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, 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:

..... $ 5,904,249

(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:
..... $ 4,614,141

(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, 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:
..... $ 2,935,849

(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, 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:
..... $ 2,110,925

(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, 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:
..... $ 7,887,469

(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, including the treatment and supervision of probation and parole violators who have been released from the department of corrections violator program, including implementation of an intermediate criminal sanctions plan, the following amount, or so much thereof as is necessary:
..... $ 5,939,158

(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.

(3) The district department, in consultation with the intermediate criminal sanctions task force established in this Act, shall develop and implement a plan providing for the expanded

use of intermediate criminal sanctions. The plan shall emphasize sanctions which involve a high degree of offender control within the community. The district department shall provide a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau on or before January 15, 1994, outlining its activities in implementing the plan.

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:
..... $ 4,101,993

(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:
..... $ 3,495,613

(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:
..... $ 85,817

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.

8. Each judicial district department of correctional services shall provide a report concerning the treatment and supervision of probation and parole violators who have been released

from the department of corrections violator program, to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1994.

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, 1993, and ending June 30, 1994, 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, trial court supervisors, trial court technicians II, financial supervisors I and II, 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, 1993, and maintenance, equipment, and miscellaneous purposes:

..... $ 79,686,348

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 $1,897,728 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.

e. The judicial department shall use a portion of the funds appropriated in this subsection for educational purposes to implement the recommendations of the equality in the courts task force.

f. Of the funds appropriated in this subsection, not more than $35,008 shall be used for salary, support, maintenance, and miscellaneous purposes related to employment of an additional juvenile court officer in the third judicial district.

g. Of the funds appropriated in this subsection, the judicial department shall use not more than $200,000 for the purchase of equipment. However, the funds appropriated pursuant to this subsection shall not be used for the purchase of new furniture.

h. Of the funds appropriated in this subsection, not more than $100,000 shall be used for increasing the existing capacity of the Iowa court information system, and the funds referred to in this paragraph shall not be used for the purchase or installation of additional terminals.

i. It is the intent of the general assembly that the clerk of court offices operate in all ninety-nine counties and be accessible to the public as much as is reasonably possible in order to address the relative needs of the citizens of each county.

j. The judicial department shall report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system by February 1, 1994, concerning an evaluation of the needs of the court system, particularly resources necessary to meet the increasing demands on the courts. The report shall also identify legislative changes which would reduce or alleviate the workload of the courts.

2. For the juvenile victim restitution program:
..... $ 98,000

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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the Iowa court information system:
..... $ 857,500

1. The judicial department shall not change the appropriations from the amounts appropriated in 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.

2. The judicial department shall provide a report semiannually to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system 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 the amounts collected in 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. The department of corrections, in consultation and cooperation with the judicial district departments of correctional services, the board of parole, and the judicial department, shall provide a report concerning the development of the automated data system to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1994.

Sec. 10. PLACEMENTS FOR ELDERLY OR INFIRM INMATES. The department of corrections, board of parole, Iowa 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. The department of corrections shall provide a report concerning the activities of developing community-based placements for elderly or infirm inmates to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1994.

Sec. 11. INTERMEDIATE CRIMINAL SANCTIONS TASK FORCE.

1. An intermediate criminal sanctions task force is established to develop a plan for the use of intermediate criminal sanctions as sentencing options. The membership of the task force shall include the following persons:

a. Four members of the senate, with two members appointed by the senate majority leader and two members appointed by the senate minority leader, and four members of the house of representatives, with two members appointed by the speaker of the house of representatives and two members appointed by the minority leader of the house of representatives.

b. The directors of each of the judicial district departments of correctional services or their designees.

c. The chief judges of each judicial district or their designees.

d. A representative of the prosecuting attorneys training coordination council, appointed by the chairperson of the council.

e. The state public defender or the state public defender's designee.

f. A member of the criminal law section of the Iowa state bar association, appointed by the president of the association.

g. The director of the department of corrections or the director's designee, the deputy director of the division of community services or the deputy director's designee, the deputy director of the division of administration or the deputy director's designee, and a warden or superintendent of a correctional institution listed in section 904.102, appointed by the director of the department.

h. A representative of the division of substance abuse and health promotion of the Iowa department of public health, appointed by the director of the Iowa department of public health.

i. A representative of the governor's alliance on substance abuse, appointed by the alliance.

j. The chairperson of the board of parole or the chairperson's designee.

Vacancies shall be filled in the same manner as original appointments. Legislative members of the task force shall be paid the per diem and expenses specified in section 2.10, subsection 6, from the funds appropriated under section 2.12. However, legislative members shall not be paid pursuant to this section when the general assembly is actually in session at the seat of government. Nonlegislative members who are state officers or employees shall be paid their actual and necessary expenses incurred in the performance of their duties from funds appropriated to their respective state agencies and departments, and nonlegislative members who are not state officers or employees shall receive a per diem and their actual and necessary expenses incurred in the performance of their duties as specified in section 7E.6, from the funds appropriated under section 2.12, for each day of service.

2. The criminal and juvenile justice planning advisory council shall convene the task force and provide staff support from the division of criminal and juvenile justice planning of the department of human rights. The task force shall select a chairperson from among its members. The criminal and juvenile justice planning advisory council shall convene the initial meeting no later than July 30, 1993. Subsequent meetings shall be held at the request of the chairperson.

3. The task force shall develop a plan for the use of intermediate criminal sanctions as sentencing options. The plan shall include the following components:

a. The plan shall define intermediate criminal sanctions. The definition shall emphasize sanctions which involve a high degree of offender control within the community, including residential treatment facilities, house arrest and intensive supervision programs utilizing electronic monitoring, day reporting, and community work projects with participation involving groups of offenders.

b. The plan shall be designed to consider the need to reduce prison overcrowding and unwarranted disparities in sentences.

c. The plan shall recommend a statewide intermediate criminal sanctions structure which includes uniform policies and guidelines for the use of the sanctions and identifies persons with the authority to impose the sanctions, both at the imposition of sentence and in response to noncompliant behavior after sentencing.

d. The plan shall identify ways to restructure the use of resources for existing correctional programs in a manner that minimizes the need for additional resources. However, the plan may include recommendations for the use of intermediate criminal sanctions which require

additional resources, if the recommendations are designed to enhance rather than form the basis of the plan. Recommendations shall include fiscal impact analyses.

e. The plan shall define a process for conducting a comprehensive review of the Iowa criminal code, as defined in section 701.1, and shall include recommendations for changes to the Code of Iowa as appropriate to implement the plan.

f. The plan shall consider whether a boot camp program should be established to meet the needs of youthful offenders with intensive programming needs, and make recommendations as to how a boot camp program should be structured.

4. The task force shall submit the plan to the governor and the general assembly on or before June 30, 1994.

Sec. 12. CORRECTIONAL INSTITUTIONS – VOCATIONAL TRAINING.

1. The state prison industries board and the department of corrections shall develop a plan to enhance vocational training opportunities within the correctional institutions listed in section 904.102. The board and the department shall develop the plan in cooperation and consultation with the following:

a. The department of education.

b. The department of economic development.

c. The state board for community colleges.

d. The board of directors of each community college located within a merged area in which the community college serves a correctional institution listed in section 904.102.

2. The plan shall provide for increased vocational training opportunities within the correctional institutions, including the possibility of approving community college credit for inmates working in prison industries.

3. The department of corrections shall provide a report concerning the plan to the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau, on or before January 15, 1994.

Sec. 13. Section 2.50, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Perform the duties pertaining to the preparation of correctional impact statements, as provided in section 2.56.

Sec. 14. NEW SECTION. 2.56 CORRECTIONAL IMPACT STATEMENTS.

1. Prior to debate on the floor of a chamber of the general assembly, a correctional impact statement shall be attached to any bill, joint resolution, or amendment which proposes a change in the law which creates a public offense, significantly changes an existing public offense or the penalty for an existing offense, or changes existing sentencing, parole, or probation procedures. The statement shall include information concerning the estimated number of criminal cases per year that the legislation will impact, the fiscal impact of confining persons pursuant to the legislation, the impact of the legislation upon existing correctional institutions, community-based correctional facilities and services, and jails, the likelihood that the legislation may create a need for additional prison capacity, and other relevant matters. The statement shall be factual and shall, if possible, provide a reasonable estimate of both the immediate effect and the long-range impact upon prison capacity.

2. a. The preliminary determination of whether a bill, joint resolution, or amendment appears to require a correctional impact statement shall be made by the legislative service bureau, which shall send a copy of the bill, joint resolution, or amendment, upon completion of the draft, to the legislative fiscal director for review, unless the requestor specifies the request is to be confidential.

b. When a committee of the general assembly reports a bill, joint resolution, or amendment to the floor, the committee shall state in the report whether a correctional impact statement is or is not required.

c. The legislative fiscal director shall review all bills and joint resolutions placed on the calendar of either chamber of the general assembly, as well as amendments filed to bills or joint resolutions on the calendar, to determine whether a correctional impact statement is required.

d. A member of the general assembly may request the preparation of a correctional impact statement by submitting a request to the legislative fiscal bureau.

3. The legislative fiscal director shall cause to be prepared and shall approve a correctional impact statement within a reasonable time after receiving a request or determining that a proposal is subject to this section. All correctional impact statements approved by the legislative fiscal director shall be transmitted immediately to either the chief clerk of the house or the secretary of the senate, after notifying the sponsor of the legislation that the statement has been prepared, for publication in the daily clip sheet. The chief clerk of the house or the secretary of the senate shall attach the statement to the bill, joint resolution, or amendment affected as soon as it is available.

4. The legislative fiscal director may request the cooperation of any state department or agency or political subdivision in preparing a correctional impact statement.

5. A revised correctional impact statement shall be prepared if the correctional impact has been changed by the adoption of an amendment, and may be requested by a member of the general assembly or be prepared upon a determination made by the legislative fiscal director. However, a request for a revised correctional impact statement shall not delay action on the bill, joint resolution, or amendment unless so ordered by the presiding officer of the chamber.

Sec. 15. Section 13.25, Code 1993, 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. 16. Section 13A.2, subsection 3, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

3. The attorney general shall, with the advice and consent of the council, appoint an attorney with knowledge and experience in prosecution to the office of prosecuting attorneys training coordinator. The prosecuting attorneys training coordinator shall be the administrator of the office of the prosecuting attorneys training coordinator. The coordinator's term of office is four years, beginning on July 1 of the year of appointment and ending on June 30 of the year of expiration.

Sec. 17. Section 13A.2, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 4. If a vacancy occurs in the office of prosecuting attorneys training coordinator, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment was made.

NEW SUBSECTION. 5. The attorney general may, with the advice of the council, remove the prosecuting attorney training coordinator for malfeasance or nonfeasance in office, for any cause which renders the coordinator ineligible for appointment, or for any cause which renders the coordinator incapable or unfit to discharge the duties of office. The prosecuting attorneys training coordinator may also be removed upon the unanimous vote of the council. The removal of a prosecuting attorneys training coordinator under this section is final.

Sec. 18. NEW SECTION. 602.6111 IDENTIFICATION NUMBERS ON DOCUMENTS FILED WITH THE CLERK.

1. Each petition or complaint, answer, appearance, first motion, or any document filed with the clerk of the district court which brings new parties into an action shall bear a personal identification number. The personal identification number shall be the employer identification number or the social security number of each separate party. If an individual party's driver's license lists a distinguishing number other than the party's social security number, the document filed with the clerk of the district court shall also contain the distinguishing number from the party's driver's license.

2. The clerk of the district court shall affix the identification numbers required pursuant to subsection 1 to any judgment, sentence, dismissal, or other paper finally disposing of an action.

Sec. 19. Section 654A.17, Code 1993, is amended to read as follows:

654A.17 REPEAL OF CHAPTER.

This chapter is repealed on July 1, ~~1993~~ 1995.

Sec. 20. Section 654B.12, Code 1993, is amended to read as follows:

654B.12 REPEAL OF CHAPTER.

This chapter is repealed on July 1, ~~1993~~ 1995.

Sec. 21. Section 905.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. Provide for standards for mental fitness which shall govern the initial recruitment, selection, and appointment of parole and probation officers. To promote these standards, the department of corrections shall by rule require a battery of psychological tests to determine cognitive skills, personality characteristics, and suitability of all applicants for a correctional career, as is required for correctional officers pursuant to section 904.108.

Sec. 22. NEW SECTION. 909.10 COLLECTION OF DELINQUENT AMOUNTS BY THE COURT.

1. As used in this section, unless the context otherwise requires, "delinquent amounts" means a fine, court-imposed court costs in a criminal proceeding, or criminal surcharge imposed pursuant to section 911.2, which remains unpaid after two years from the date that the fine, court costs, or surcharge was imposed, and which is not collected by the county attorney pursuant to section 909.9. However, if the fine may be paid in installments pursuant to section 909.3, the fine is not a delinquent amount unless the installment remains unpaid after two years from the date the installment was due.

2. Notwithstanding the disposition sections of sections 602.8106 and 911.3, upon the collection of delinquent amounts, the clerks of the district court shall remit the delinquent amounts to the treasurer of state for deposit into the revolving fund established pursuant to section 602.1302, to be used for the payment of jury and witness fees and mileage.

Sec. 23. 1990 Iowa Acts, chapter 1143, section 32, subsection 2, is amended to read as follows:

2. Sections 28 and 29 of this Act take effect on July 1, ~~1993~~ 1995.

Sec. 24. 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 407, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Notwithstanding section 8.33 or 8.39, any balance remaining from the appropriation made pursuant to this section 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.

Sec. 25. APPLICABILITY. Section 18 of this Act applies to any action commenced on or after the effective date of section 18 of this Act, as well as documents filed on or after the effective date of section 18 of this Act in actions which are pending as of the effective date of section 18 of this Act.

Sec. 26. EFFECTIVE DATES.

1. 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.

2. Sections 15, 19, 20, and 23 of this Act, relating to farm mediation and legal assistance provisions, being deemed of immediate importance, take effect upon enactment.

3. Section 24 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

Approved April 26, 1993

CHAPTER 172

APPROPRIATIONS — HUMAN SERVICES

H.F. 518

***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 the child and dependent care individual income tax credit, providing for the application of a civil penalty, providing for effective and applicability dates, and providing for retroactive applicability.

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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For aid to families with dependent children:

..... $ 43,247,427

1. The department may fund the employee portion of the cash bonus program from unspent funds under the appropriations 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, 1993, and ending June 30, 1994, or for as long as federal approval of the program continues for the 12 covered counties. Of the funds appropriated in this section, up to $49,700 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. Of the funds appropriated in this section, up to $49,700 shall be used to provide technical assistance for AFDC families seeking self-employment and to build the capacity of service providers statewide.

4. The department shall continue the special needs program under the aid to families with dependent children program.

5. 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.

6. The department may transfer funds appropriated in this Act if any waiver request involving welfare reform is denied by the federal department of health and human services.

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, 1993, and ending June 30, 1994, 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 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

*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

family or living arrangements. The emergency assistance shall be available to migrant families who would otherwise meet eligibility criteria.

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, 1993, and ending June 30, 1994, 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:

..... $ 342,058,555

1. Medically necessary abortions are those performed under any of the following conditions:

a. The attending physician certifies that continuing the pregnancy would endanger the life of the pregnant woman.

b. The attending physician certifies that the fetus is physically deformed, mentally deficient, or afflicted with a congenital illness.

c. The pregnancy is the result of a rape which is reported within 45 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

d. The pregnancy is the result of incest which is reported within 150 days of the incident to a law enforcement agency or public or private health agency which may include a family physician.

e. Any spontaneous abortion, commonly known as a miscarriage, if not all of the products of conception are expelled.

2. 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 in accordance with the provision of sections 249A.26 and 249A.27, and for 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. The state shall pay the entire nonfederal share of the costs for case management services provided to persons who are less than 18 years of age and are served under the medical assistance home and community-based waiver program for persons with mental retardation.

c. Medical assistance funding for case management services for eligible persons who are less than 18 years of age 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 provides the nonfederal share of costs.

d. 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 under medical assistance for persons with mental illness, mental retardation, or developmental disabilities services 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 which the funds were appropriated in this section.

3. If the department submits a report to the governor and the legislative fiscal committee which shows that adding a drug to the list of prescription drugs requiring prior authorization under the medical assistance program would maintain the level of quality and access to health

care for recipients, the department may include that drug in the list of drugs requiring prior authorization. The report shall be submitted prior to adding a drug to the list and shall provide an analysis of the potential impact on recipient access to prescription drugs, cost offset to be realized from substitution of an alternative drug regimen for the drug proposed for prior authorization, and the potential impact on utilization of other institutional health care resources due to requiring the prior authorization of the drug. Drug selections shall be made by the department with the assistance of the Iowa medicaid drug utilization review commission and in consultation with representatives of consumers, health care providers, and other parties which may be affected by the prior authorization requirements. The department may adopt emergency rules in implementing the provisions of this subsection.

4. The department shall expand the list of over-the-counter drugs covered under the medical assistance program where it is anticipated that such expansion will result in savings to the medical assistance program. The department may adopt emergency rules in order to implement this change.

5. The department shall expand managed care programs within the medical assistance program to increase the enrollment of medical assistance recipients in managed care programs to the extent possible above the current enrollment. The department shall develop cost-effective reimbursement methodologies for the managed care providers under the medical assistance program. The department may adopt emergency rules in order to implement this change.

*6. *The department in coordination with the Iowa foundation for medical care and nursing facility providers shall develop criteria for medical assistance-eligible nursing facility residents to identify persons with special care needs and persons with minimal care needs. Effective July 1, 1993, nursing facilities shall receive, in addition to their regular medical assistance rate, $4 per day for each day of care provided to medical assistance-eligible residents meeting special criteria. Additionally, notwithstanding their regular approved medical assistance rate, each nursing facility shall receive a $4 per day rate reduction for medical assistance-eligible residents with minimal care needs. The department may use up to $50,000 of the funds appropriated in this section in order to update the facility payment system, which will be necessary to implement this change. The department may adopt emergency rules to implement the provisions of this subsection.*

7. The department shall revise the medical assistance payment policy for hospital emergency room services to provide a lower rate of reimbursement for nonemergency services when the referral has been made by a physician. The department may adopt emergency rules in order to implement this change.

8. The department shall utilize not more than $60,000 of the funds appropriated in this section to continue the AIDS/HIV health insurance premium payment program as established in 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 409. Of the moneys allocated in this subsection, not more than $10,000 may be expended for administrative purposes.

9. The department of human services in cooperation with the judicial department shall review and make recommendations to the general assembly by January 1, 1994, regarding the feasibility of receiving additional federal funding under the medical assistance program for adult mental health and substance abuse treatment services.

10. The department shall not promote and shall not discourage the utilization of mail order purchasing of pharmaceuticals under the medical assistance program.

11. The department shall review all claims submitted under court-ordered services provided to juveniles pursuant to section 232.141 and the appropriation in this Act for that purpose to determine the claims' medical assistance eligibility. Any claims eligible for reimbursement under medical assistance shall be submitted for payment under medical assistance, and the nonfederal share of the payment shall be transferred from the appropriation in this Act for court-ordered services provided to juveniles.

12. The department shall determine the portion of the administrative costs associated with health care licensure which can be attributed to medical assistance. The Iowa department of public health shall identify the funds associated with health care provider licensure in an amount

*Item veto; see message at end of the Act

necessary to qualify for matching federal medical assistance funding. Those costs which can be attributed shall be charged to medical assistance and the federal funds received shall be deposited with and used for the purposes of the appropriation made in this section, with the exception of $115,000 of the funds received which shall be transferred to the child support recovery appropriation under this Act to be used for the purposes of the child support recovery program.

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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... $ 5,542,950

1. The department shall expand the contract with the Iowa foundation for medical care for drug utilization review under the medical assistance program and shall implement a program of prospective drug utilization review.

2. The department may use not more than $50,000 of the funds appropriated in this section to contract for services necessary to develop and implement a new system for reimbursing hospitals for outpatient services. The department may adopt emergency rules in order to implement the new system.

3. The department shall continue the point-of-service claims transmission system through the medicaid management information system for the prescription drug component of the medical assistance program and shall seek to implement point-of-service claims processing systems for other components of the medical assistance program.

4. The department may use not more than $62,500 of the funds appropriated in this section to contract for maximization of the health insurance premium payment (HIPP) 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance:

..... $ 18,792,860

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 paragraph.

Sec. 6. 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, 1993, and ending June 30, 1994, 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:

..... $ 7,680,962

1. Of the funds appropriated in this section $3,107,695 shall be used for protective child day care assistance.

2. Of the funds appropriated in this section $1,437,942 shall be used for state child care assistance.

3. a. The funds appropriated 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 100 percent of the federal office of management and budget poverty guidelines. However, on or after October 1, 1993, the department may increase the income eligibility limit to be equal to or less than 75 percent of the Iowa median family income. Persons receiving child care assistance on June 30, 1993, shall not be cancelled in the succeeding fiscal year due to the reduction in income guideline from the guideline used in the fiscal year ending June 30, 1993.

c. The department may adopt emergency rules to comply with the federal child care development block grant and federal at-risk child care program; to streamline the existing day care program including but not limited to adopting definitions for units of service, payment rates, and eligibility for services; and to deliver the services within state and federal funds appropriated.

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.

e. Beginning July 1, 1993, the department shall terminate the use of the child care assistance waiting list established during the fiscal year beginning July 1, 1992. Families who were on the waiting list which continue to require child care assistance may reapply for assistance beginning July 1, 1993, and may receive services based upon the availability of funding and based upon the prioritization schedule established by the department in descending order of prioritization as follows:

(1) Families who are at or below 100 percent of the poverty level with a child under five years of age in which the parents are employed at least 35 hours per week.

(2) Families who are participating in a JOBS program who have a child and who are not eligible for child care assistance under any other criteria.

(3) Parents under the age of 21 and who are either employed full-time or part-time, or who are participating in an approved training program, or who are enrolled in an education program.

(4) Families who are providing foster care.

(5) Families who are at or below 155 percent of the poverty level who have a special needs child.

(6) Families who are receiving ADC, who are participating in an approved training program, and who are named on the JOBS waiting list.

(7) Families who are at or below 100 percent of the poverty level who have a child under five years of age and who are employed part-time.

The department may adopt emergency rules to implement the provisions of this lettered paragraph.

4. Of the funds appropriated in this section, $633,931 is allocated 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 matching funds to obtain federal grants for use in expanding child day care assistance and related programs.

6. a. Of the funds appropriated in this section $350,962 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 excluded under the definition of "child day care" pursuant to section 237A.1, subsection 4.

7. Of the funds appropriated in this section, the department shall use up to $233,735 to increase the department's staff as necessary to meet federal requirements.

8. During the 1993-1994 fiscal year, the department shall utilize the moneys deposited in the child day care credit fund, created in this Act, in descending order of priority as follows:

(1) If a federal waiver is granted, to extend transitional child care assistance in accordance with federal requirements and section 239.21, to a period of 24 months from the current period of 12 months.

(2) To expand the number of children receiving assistance under the state child care assistance program in accordance with the provisions of subsection 3.

(3) To expand the eligibility limit for state child care assistance to be equal to or less than 75 percent of the Iowa median family income as provided in subsection 3, paragraph "b".

Sec. 7. 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, 1993, and ending June 30, 1994, 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, family development and self-sufficiency grants, and implementing agreements between the department and recipients of aid to dependent children, in accordance with this section:

..... $ 7,718,000

1. Of the funds appropriated in this section, $4,580,701 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 generate 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 matching funds are generated by a family development and self-sufficiency grantee, the federal funding received shall be used exclusively 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. 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.

5. Of the funds appropriated in this section, $2,228,000 shall be used to implement agreements between the department and recipients of aid to dependent children as a component of a welfare reform initiative.

Sec. 8. 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child support recovery, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 4,307,709

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 the current and additional employees, combined,

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 appropriations subcommittee on human services the ratio of the total amount of administrative costs for child support recoveries to the total amount of the child support recovered.

2. Moneys received by the child support recovery program through a transfer of federal funds received through the attribution to medical assistance of administrative costs associated with health care licensure, are appropriated and shall be used for the purposes of the child support recovery program. The director of human services may add additional positions if moneys transferred 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 appropriations subcommittee on human services and the legislative fiscal bureau.

3. The director of human services, in consultation with the department of management and the legislative fiscal committee, may 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. The child support recovery unit shall, in cooperation with the judicial department, determine the feasibility of a pilot project utilizing a court-appointed referee for judicial determinations on child support matters. The provisions of this subsection shall apply only if the 75th General Assembly, 1993 Session, enacts legislation allowing for the court appointment of a referee for child support matters, and if funding can be identified through existing appropriations or nonstate general fund sources. If these conditions are met, a pilot project may be implemented during the 1993-1994 fiscal year. The extent and location of any pilot project shall be jointly developed by the judicial department and the child support recovery unit.

6. Funding is provided within this appropriation for expenses relating to a child support public awareness campaign. The department shall transfer $50,000 to the office of the attorney general and the department and the attorney general shall cooperate as necessary for continuation of the campaign.

Sec. 9. 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, 1993, and ending June 30, 1994, 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, and miscellaneous purposes:

For the state juvenile institutions:

..... $ 12,615,714

1. The following amount of the funds appropriated in this section is allocated for the Iowa juvenile home at Toledo:

..... $ 4,683,351

2. The following amount of the funds appropriated in this section is allocated for the state training school at Eldora:

..... $ 7,932,363

3. During the fiscal year beginning July 1, 1993, the population levels at the state juvenile institutions shall not exceed the population guidelines established under 1990 Iowa Acts, chapter 1239, section 21.

4. Each state juvenile institution shall apply for adolescent pregnancy prevention grants.

5. Within the funds appropriated in this section, the department may reallocate funds as necessary to fulfill the needs of the institutions provided for in this appropriation.

6. 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. 10. JUVENILE DETENTION HOMES — FISCAL YEAR 1994. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For reimbursement of counties for juvenile detention homes in accordance with the provisions of this section:

..... $ 170,000

Notwithstanding sections 8.33 and 8.39, of the funds appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1992, for reimbursement of counties for juvenile detention homes, pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 408, $330,000 shall not revert to the general fund of the state on June 30, 1993, but shall remain available in the fiscal year beginning July 1, 1993, and shall be used in addition to the funds appropriated in this section for state payment of financial aid of ten percent of the total cost of county or multicounty juvenile detention homes in accordance with the provisions of section 232.142, subsection 3. However, if the funds designated in this section are insufficient to pay ten percent of the total cost of the homes, notwithstanding section 232.142, subsection 3, the state payment shall be less than ten percent and the department shall prorate the state payment as necessary to keep expenditures within the funds designated in this section.

Sec. 11. CHILD AND FAMILY SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... $ 67,538,435

1. Upon receipt of federal approval, the department shall add family-centered services, family preservation, treatment foster care, and group care services to the medicaid state plan, utilizing the early and periodic screening, diagnosis, and treatment (EPSDT) authority provided by the federal government. The department may transfer moneys appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under medical assistance which are provided to children who would otherwise receive services paid under this appropriation. The department may adopt emergency rules to implement the provisions of this subsection. The rules may include, but are not limited to, the development of program descriptions, provider certification standards, cost principles, rate-setting, contract requirements, clinical assessment and consultation team standards, service necessity criteria, claims submission requirements, and program accountability standards for program components included in the medical assistance state plan and for program components not eligible for medical assistance funding. The department shall work with affected parties in developing the rules authorized by this subsection.

2. The department may transfer funds appropriated in this section to the appropriations in this Act for general administration and to field operations for resources necessary to develop, implement, and operate the initiative in subsection 1.

3. The department may adopt emergency rules if the department secures additional nonstate funding for child and family services for which a state appropriation is provided. If the

funding is available, the department may transfer moneys appropriated in this Act as necessary to pay the nonfederal share of the costs of services reimbursed under a federal program which are provided to children who would otherwise receive services paid under this appropriation.

4. Of the funds appropriated in this section, up to $629,918 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. The department may transfer funds as necessary to implement this subsection to the appropriations in this Act for field operations and general administration.

5. 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 placement of 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 $49,922 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.

6. 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 workers who are involved with referrals of children to foster care. The department shall work with the judicial department 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 $87,364 of the funds appropriated in this section.

7. Of the funds appropriated in this section, not more than $3,000,000 may be used for services to families of children with mental retardation or other developmental disabilities, who would otherwise enter or continue group foster care.

8. a. Of the funds appropriated in this section, up to $21,161,299 is allocated for group foster care maintenance and services. For the fiscal year beginning July 1, 1993, the statewide target, as provided for in section 232.143, for the average number of children placed in group foster care on any day of the fiscal year which are a charge upon or are paid for by the state, shall be 1,350. Notwithstanding the statewide target established in this subsection and sections 232.52, 232.102, 232.117, 232.127, and 232.182, a target established in a region's group foster care plan pursuant to section 232.143 may be exceeded, a group foster care placement may be ordered, and state payment may be made if a clinical assessment and consultation team finds that the placement is necessary to meet the child's service needs. If the daily average target established in a region's group foster care plan is exceeded, the department and courts in that region shall refer at least five percent of the region's group foster care placements to a clinical assessment and consultation team to determine if an alternative service would meet the child's service needs and to assist the region in reducing the number of children in group foster care to the regional target within 45 days from the date the target was exceeded. The department and the courts shall work together to ensure that a region's group

foster care expenditures shall not exceed the funds allocated to the region for group foster care in the 1993-1994 fiscal year. The department may adopt emergency rules in order to implement the provisions of this paragraph.

b. Notwithstanding the formula specified in section 232.143, subsection 1, the department and the judicial department shall develop a formula for allocating a portion of the statewide target to each of the department's regions based on factors determined by the department and the judicial department which may include but are not limited to historical usage of group foster care beds and indicators of need for group foster care placements. The formula shall be established by May 1, 1993. The department may adopt emergency rules in order to implement the provisions of this paragraph.

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. The reimbursement rates paid for placement of children out-of-state shall not exceed the maximum reimbursement rate established by the general assembly for group foster care placements in this state unless the director determines that appropriate care cannot be provided within the state. The department shall adopt emergency rules defining the criteria and process for making the determination of need for out-of-state care.

e. The plans developed by the department and the juvenile court pursuant to section 232.143 for containing the number of children placed in group foster care shall ensure that, effective November 1, 1993, all potential group foster care referrals are reviewed by a clinical assessment and consultation team prior to submission of a recommendation for group foster care placement to the court. Prior to November 1, 1993, all group foster care referrals shall be reviewed jointly by a team that includes representatives appointed by the department and the juvenile court.

9. 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.

10. The department shall continue to contract for 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 may continue the contract initiated in the fiscal year beginning July 1, 1992, if defined goals have been achieved. The department shall involve the family foster care advisory committee in 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.

11. In accordance with the provisions of section 232.188, 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, 1994. 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, child and family services, family-centered services, subsidized adoption, child day care, local purchase portion of the mental health, mental retardation, developmental disabilities, and brain injury community services appropriated in this Act, 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 for purposes of section 8.33. 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 preceding the fiscal year, 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 of the fiscal year. 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. The demonstration program shall be designed to operate in a county for a three-year period. The three-year time period for a decategorization project 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.

12. Of the funds appropriated in this section, up to $520,324 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". 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 preceding the beginning of the fiscal year, who, during the fiscal year would no longer be eligible for foster care due to age. The department may adopt administrative rules to implement the provisions of this subsection.

13. The provisions of this section continue 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, in coordination with the legislative fiscal bureau and the judicial department, shall continue to track those out-of-home placements of children in which the state or a county is financially involved. The tracking information shall be submitted quarterly to the governor, the chairpersons and ranking members of the joint appropriations subcommittee on human services, and the legislative fiscal bureau and shall include all of the following information:

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, group 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), and residential care facilities for the mentally retarded (RCF/MR).

14. The amount of the appropriation made in this section available 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 $300,000 of this appropriation to enter into a performance-based contract to secure SSI benefits for children placed in foster care. 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.

15. A limited amount of the funds appropriated in this section may be used for emergency family assistance to provide other resources required for a family participating in a family preservation or reunification project to stay together or to be reunified.

16. Notwithstanding section 234.35, subsection 1, state funding for shelter care paid pursuant to section 234.35, subsection 1, shall be limited to $6,889,756. The department may adopt emergency rules to implement the provisions of this subsection.

17. Of the funds appropriated in this section, up to $720,213 may be used as determined by the department for any of the following purposes:

a. For general administration of the department to improve staff training efforts.

b. 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.

c. 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.

d. For personnel, assigned by the attorney general, to provide additional services relating to termination of parental rights and child in need of assistance cases.

e. 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.

f. For use by the department in conducting outcome-oriented evaluations of child protection, prevention, and treatment programs.

g. For specialized foster care permanency planning field operations staff.

18. Moneys appropriated in 1992 Iowa Acts, chapter 1241, section 12, subsection 12, for wrap-around services remaining unexpended on June 30, 1993, shall be considered encumbered for purposes of section 8.33, and shall be used to provide wrap-around services or support funds as provided in this subsection in fiscal year 1993-1994. The moneys shall be used by each region to reduce the number or length of group foster care placements from that region. For the purposes of this subsection, "wrap-around services or support funds" means individualized and community-based services or support funds for children and families which enable group foster care placement to be prevented or the length of stay reduced. The department shall establish flexible approval and payment mechanisms for this pilot project. Notwithstanding section 232.187, each department region shall establish procedures for developing and approving the use of wrap-around services or support funds. The department may adopt emergency rules to implement the provisions of this subsection.

19. The department shall develop at least 30 contract family foster care homes for children who present severe emotional or behavioral management problems who might otherwise be placed in group foster care. The funding for the development and implementation of these homes shall include up to $750,000 of the funds encumbered under 1992 Iowa Acts, chapter 1241, section 12, subsection 9, which for purposes of section 8.33 shall remain available for expenditure during the 1993-1994 fiscal year. Contracts shall provide that the family receives a certain fixed payment regardless of placements, and shall specify that at least one parent shall generally be available in the home 24 hours a day in order to provide intensive and consistent structure and therapeutic intervention, and to respond to crises. Each home shall serve a maximum of three children.

Sec. 12. 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, 1993, and ending June 30, 1994, 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, and miscellaneous purposes:

..... $ 1,624,226

1. Of the funds appropriated in this section, $652,451 shall be used for adolescent pregnancy prevention grants. The department may use a limited amount of the funds appropriated in this subsection for administrative costs.

2. Of the funds appropriated in this section, $532,789 shall be used by the department for child abuse prevention grants.

Sec. 13. 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, 1993, and ending June 30, 1994, the following amounts, 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:

..... $ 3,590,000

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 of each fiscal year.

2. a. 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.

b. Each district planning group shall submit an annual report in January 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 appropriations subcommittee on human services 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 appropriations subcommittee on human services 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 region 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 regional allocation to pay for the service. The chief juvenile court officer in cooperation with the judicial district planning group shall 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.

8. The department of human services shall identify services funded under the appropriation which are eligible for funding under medical assistance pursuant to the early and periodic screening, diagnosis, and treatment initiative implemented in the appropriation in this Act for child and family services. Identified services shall be included in the initiative and moneys appropriated in this section may be transferred as necessary to pay the nonfederal share of the costs of the services.

Sec. 14. 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, 1993, and ending June 30, 1994, 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, and miscellaneous purposes:

..... $ 42,043,149

1. The funds appropriated in this section are allocated as follows:

a. State mental health institute at Cherokee:

..... $ 14,251,852

b. State mental health institute at Clarinda:

..... $ 5,987,667

c. State mental health institute at Independence:

..... $ 16,976,476

d. State mental health institute at Mount Pleasant:

..... $ 4,827,154

2. The department may reallocate funds appropriated in this section as necessary to 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 in 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 to patients being discharged in obtaining eligibility for federal supplemental security income (SSI).

Sec. 15. 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, 1993, and ending June 30, 1994, 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, and miscellaneous purposes:

..... $ 66,254,348

1. The funds appropriated in this section are allocated as follows:

a. State hospital-school at Glenwood:

..... $ 35,798,473

b. State hospital-school at Woodward:

..... $ 30,455,875

2. The department may reallocate funds appropriated in this section as necessary to 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. 16. 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, 1993, and ending June 30, 1994, 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 development of the facilities.

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 for persons who are mentally ill and homeless. The funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.

Sec. 17. 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:

..... $ 1,050,000

Sec. 18. 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, 1993, and ending June 30, 1994, 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. 19. MI/MR/DD STATE CASES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities where the client has no established county of legal settlement:
..... $ 4,031,891

Sec. 20. MENTAL ILLNESS – 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental illness, mental retardation, developmental disabilities, and brain injury community services in accordance with the provisions of this Act:
..... $ 28,708,109

1. Of the funds appropriated in this section, $15,639,333 shall be allocated to counties for funding of community-based mental illness, 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.

2. a. A county shall utilize the funding the county receives pursuant to subsection 1 for services provided to persons with mental illness, mental retardation, developmental disability, and brain injury. However, no more than 50 percent of the funding shall be used for services provided to any one of the service populations.

b. For each fiscal year, a county shall use at least 50 percent of the funding the county receives pursuant to subsection 1 for the contemporary services.

c. The mental health and mental retardation commission shall adopt rules pursuant to chapter 17A describing the contemporary services. The commission may adopt emergency rules to implement this subsection.

3. 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.

4. 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 appropriations subcommittee on human services and the legislative fiscal bureau.

5. a. Provision of funding under subsection 1 is contingent upon a county participating in the county's mental illness, mental retardation, developmental disabilities, and brain injury (MI/MR/DD/BI) planning councils established pursuant to 1992 Iowa Acts, chapter 1241, section 25, subsection 4. However, a planning council's planning area shall utilize the borders of the county clusters established by the department in accordance with section 217.42 or include a population of at least 40,000 and include counties with a historical pattern of cooperation in providing MI/MR/DD/BI services.

b. A planning council shall develop plans for the provision of services for the fiscal year beginning July 1, 1994, for persons with MI/MR/DD/BI in the county or counties comprising the planning council.

c. County MI/MR/DD/BI expenditure reports for the prior fiscal year are due to the department on October 15 of each year. The county MI/MR/DD/BI plan for the fiscal year beginning July 1, 1994, is due to the department April 1, 1994.

d. If a county has not established or is not affiliated with a community mental health center under chapter 230A, the county shall expend a portion of the money received under this appropriation to contract with a community mental health center to provide mental health services to the county's residents. If such a contractual relationship is unworkable or undesirable, the mental health and mental retardation commission may waive the expenditure requirement. However, if the commission waives the requirement, the commission shall address the specific concerns of the county and shall attempt to facilitate the provision of mental health

services to the county's residents through an affiliation agreement or other means. The mental health and mental retardation commission shall adopt emergency rules to implement the provisions of this section.

e. (1) A county is entitled to receive moneys under this appropriation if the county raised by county levy and expended for mental health, mental retardation, and developmental disabilities services, in the preceding fiscal year, an amount at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980. The mental health and mental retardation commission shall adopt emergency rules to implement the provisions of this section.

(2) With reference to the fiscal year beginning July 1, 1980, money "raised by county levy and expended for mental health, mental retardation, and developmental disabilities services" means the county's maintenance of effort determined by using the general allocation application for the state community mental health and mental retardation services fund under section 225C.10, subsection 1, Code 1993. The department, with the agreement of each county, shall establish the actual amount expended by each county for persons with mental illness, mental retardation, or a developmental disability in the fiscal year beginning July 1, 1980, and this amount shall be deemed each county's maintenance of effort.

6. 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.

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, work activity, administrative support for volunteers, adult day care, adult support, and family-centered services. The department may adopt emergency rules to increase the eligibility guidelines by the same percentage and at the same time as federal social security benefits are increased due to a recognized increase in the cost of living.

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 in the preceding fiscal year.

The mental health and mental retardation commission may adopt emergency rules to implement the provisions of this lettered paragraph.

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 in this subsection do not establish an entitlement to the services funded in this subsection.

7. The department shall apply for grants to establish pilot projects for placements of geriatric patients who have a mental illness. Any grant received may be used by the department to fund a coordinator to work with hospitals and nursing homes concerning placements of geriatric patients who have a mental illness.

Sec. 21. 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For field operations, including salaries, support, maintenance, and miscellaneous purposes:
..... $ 35,980,389

*1. *The general assembly finds the following concerning department of human services' field staff caseweight factors used to measure the number and difficulty of cases assigned to individual social workers and income maintenance workers:*

a. If workers carry a caseweight factor which is too high, the workers will be unable to do their jobs effectively. A high caseweight factor indicates that a worker is likely to be overworked and will not have time to deal with a client's needs beyond the task of completing necessary paperwork.

b. Clients present serious problems which require sensitivity, time, and experience to adequately address. The problems encountered by workers include family violence, child abuse, neglect, incest, isolation and illness, homelessness, and disabilities. Workers are expected to effectively relate to persons of all ages, incomes, and backgrounds. A worker's ability to effectively respond to clients and client problems is adversely affected by an excessive caseweight level.

c. Excessive caseweight factor levels contribute to high turnover in the field staff positions and to administrative delays in replacing vacant positions, resulting in further increases in caseweight factors.

d. Excessive caseweight factor levels may create delays in service delivery causing clients to seek services from counties under general relief in order to receive assistance in a timely manner. Increases in general relief result in additional demands upon property taxes.

e. Beginning with the 1989-1990 fiscal year, the general assembly has appropriated funding and authorized full-time equivalent positions for field staff based upon caseweight factor levels stated in statute. Funding was appropriated in each of the years in order that sufficient staff persons were to be employed to achieve the stated caseweight factor levels. However, in each fiscal year in which the caseweight factor levels were stated, insufficient numbers of persons were employed and as a result the stated caseweight factor levels were not met.

f. As of February 1993, the caseweight factor levels for income maintenance workers and social workers exceed the levels stated in statute and the funding appropriated to achieve the stated levels has not been expended as intended. As a result, the caseweight factor levels have become too high for workers to effectively perform their duties.

2. The general assembly finds that the optimum caseweight levels for department of human services' field staff according to the last comprehensive analysis of the levels, is 145 for income maintenance workers and 130 for social workers. Federal courts have mandated in other states

*Item veto; see message at end of the Act

the maximum number of cases per foster care field worker the state government agencies are allowed to manage. In addition, the child welfare league of America (CWLA) has published guidelines for caseloads for various field service positions. Both the court-ordered caseloads and the CWLA guideline caseloads are lower than those caseloads borne by comparable positions in this state.

*3. The departments of human services, management, and personnel shall take every action necessary to fill vacant positions in a manner so as to reduce department of human services' field staff caseweight factor levels closer to the optimum levels. The actions shall include, but are not limited to, expedited hiring and training processes and restructuring jobs and workloads to improve the manageability of caseloads.**

Sec. 22. 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For general administration, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 9,097,174

Of the funds appropriated in this section, $57,094 shall be transferred to the prevention of disabilities policy council established in section 225B.3.

Sec. 23. VOLUNTEERS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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. 24. "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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the development costs of the "X-PERT" knowledge-based computer software package for public assistance benefit eligibility determination, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 774,645

Sec. 25. 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, 1993, 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, 1993, providers of obstetric services when provided by physicians or certified nurse-midwives shall have their medical assistance reimbursement rates increased by 10 percent over the rates in effect on June 30, 1993.

c. For the fiscal year beginning July 1, 1993, early and periodic screening, diagnosis, and treatment reimbursements for screening services under the medical assistance programs shall be increased by 50 percent over the rates in effect on June 30, 1993.

d. For the fiscal year beginning July 1, 1993, facilities certified as skilled nursing facilities pursuant to the federal medicare repayments shall have their medical assistance rates increased by 4.33 percent over the rate in effect on June 30, 1993.

*Item veto; see message at end of the Act

e. The dispensing fee for pharmacists shall remain at the rate in effect on June 30, 1993. The reimbursement policy for drug product costs shall be in accordance with federal requirements.

f. Reimbursement rates for in-patient hospital services shall be increased by an average of 5.5 percent over the rates in effect on June 30, 1993, in conjunction with the rebasing and recalibration of the diagnosis-related groups. Reimbursement rates for out-patient services shall remain according to the federal Medicare methodology until implementation of the new methodology referenced in the appropriation in this Act for medical contracts.

g. Reimbursement rates for rural health clinics shall be increased in accordance with increases under the federal medicare program.

h. 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.

i. The basis for establishing the maximum medical assistance reimbursement rate for nursing facilities shall be the 69th percentile of facility costs as calculated from the June 30, 1993, unaudited compilation of cost and statistical data. However, to the extent funds are available within the amount projected for reimbursement of nursing facilities within the appropriation for medical assistance in this Act, the department may adjust the maximum medical assistance reimbursement for nursing facilities, not to exceed the 70th percentile, as calculated from the December 31, 1993, unaudited compilation of cost and statistical data and the adjustment shall take effect January 1, 1994.

j. The department may revise the fee schedule used for physician reimbursement.

k. Federally qualified health centers shall be reimbursed at 100 percent of reasonable costs as determined by the department in accordance with federal requirements.

l. The department shall review and utilize small area analysis to identify differences in utilization of physician and hospital services. In addition, the department shall identify incentives to reward efficient, effective, and quality care.

2. a. For the fiscal year beginning July 1, 1993, the maximum cost reimbursement rate for residential care facilities reimbursed by the department under the appropriation in this Act for state supplementary assistance shall be $19.82 per day. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be $14.17 per day.

b. For the fiscal year beginning July 1, 1993, the maximum cost reimbursement rate for residential care facilities reimbursed by the department which are not subject to paragraph "a" 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, 1993, 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, 1992.

4. For the fiscal year beginning July 1, 1993, the foster family basic monthly maintenance rate for children ages 0 through 5 years shall be $308, the rate for children ages 6 through 11 years shall be $322, the rate for children ages 12 through 15 years shall be $359, and the rate for children ages 16 and older shall be $382. Effective January 1, 1994, the department shall increase the monthly allowance for children in independent living from $400 to $441. Effective January 1, 1994, the department shall increase the maximum basic monthly adoption subsidy for children ages 0 through 5 years to $308, for children ages 6 through 11 years to $322, for children ages 12 through 15 to $359, and for children ages 16 and older to $382.

5. For the fiscal year beginning July 1, 1993, the maximum reimbursement rates for social service providers shall be the same as the rates in effect on June 30, 1993, except under any of the following circumstances:

a. If a new service was added after June 30, 1993, 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.

c. For group foster care and shelter care providers reimbursed through the purchase of service system, the maximum reimbursement rate shall be $76.61 per day.

d. On July 1, 1993, subject to the maximum reimbursement rate established in paragraph "c", the following service providers reimbursed under the appropriation in this Act for child and family services and psychiatric medical institutions for children shall have their reimbursement rates increased by 2 percent over the rates in effect on June 30, 1993, as an adjustment for increases in the cost of living: group foster care, purchased family foster care, shelter care, family-centered services, family preservation services, and independent living services.

e. The increase in rates provided in paragraph "d" shall apply to shelter care and independent living services through June 30, 1994. However, effective November 1, 1993, the reimbursement rates for group foster care, purchased family foster care, family-centered services, and family preservation services shall be established by the department in accordance with the rules adopted for this purpose pursuant to section 11, subsection 1, relating to the provision of certain child and family services under medical assistance. When the department establishes the rates, the department may also adjust the rates for group foster care maintenance and establish the maximum reimbursement rates for group foster care service and maintenance. Under the new reimbursement rates, the reimbursement rate paid to a group foster care provider for combined service and maintenance shall be at least the reimbursement rate in effect for that provider on October 31, 1993, or $76.61 per day, whichever is less.

f. The rate used by the department for reimbursement of any group foster care provider in the fiscal period beginning July 1, 1993, and ending October 31, 1993, shall be equal to the provider's actual and allowable costs. However, if the provider's costs are equal to or greater than $76.61 per day, the provider's reimbursement rate shall be equal to $76.61 per day.

g. Child day care providers reimbursed by the department under the certificate program or under a purchase of service contract during the 1992-1993 fiscal year, shall have their reimbursement rates increased by 1 percent over the rates in effect on June 30, 1993. However, the department may revise the adjusted rates on or after October 1, 1993, pursuant to the rule changes made by the department in accordance with the provisions of the appropriation in this Act for child day care assistance.

6. The department may adopt emergency rules to implement the provisions of this section.

Sec. 26. 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, 1993, and ending June 30, 1994, 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. 27. 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. 28. MORATORIUM – CERTIFICATE OF NEED – INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED. Beginning July 1, 1993, and ending June 30, 1995, the Iowa department of public health shall not process applications for and shall not issue a certificate of need based upon an application for a new institutional health service or changed institutional health service for which a letter of intent was received after April 1, 1993, and for which an application was not received by June 30, 1993, for an intermediate care facility for the mentally retarded.

Sec. 29. Section 135H.4, Code 1993, is amended to read as follows:

135H.4 LICENSURE.

A person shall not establish, operate, or maintain a psychiatric medical institution for children unless the person obtains a license for the institution under this chapter and holds a license under section 237.3, subsection 2, paragraph "a", ~~subparagraph (3)~~.

Sec. 30. Section 135H.6, subsection 6, Code 1993, is amended to read as follows:

6. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph "a", ~~subparagraph (3),~~ for three years or of an agency which has operated a facility for three years providing psychiatric services exclusively to children or adolescents and the facility meets or exceeds requirements for licensure under section 237.3, subsection 2, paragraph "a", ~~subparagraph (3)~~.

Sec. 31. Section 225C.20, Code 1993, is amended to read as follows:

225C.20 RESPONSIBILITIES OF COUNTIES FOR INDIVIDUAL CASE MANAGEMENT SERVICES.

Individual case management services funded under medical assistance 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 so long as the subcontract meets the same standards. A ~~mental health, mental retardation, and developmental disabilities coordinating~~ county board of supervisors may change the provider of individual case management services at any time. If the current or proposed contract is with the department, the ~~coordinating~~ county board of supervisors 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. 32. Section 232.71, subsections 3 and 6, Code 1993, are amended to read as follows:

3. The investigation may, with the consent of the parent or guardian, include a visit to the home of the child named in the report and an interview or observation of the child may be conducted. If permission to enter the home to interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the investigation to enter the home and interview or observe the child. ~~The department may utilize a multidisciplinary team in investigations of child abuse.~~

6. The investigation may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the investigator by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the investigator confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The investigator may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph "b". A witness shall be present during an observation of a child. Any child age ten years of age or older can terminate contact with the investigator by stating or indicating the child's wish to discontinue

the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of such administrators and their facilities or school districts for cooperating in an investigation and allowing confidential access to a child. ~~The department may utilize a multidisciplinary team to conduct investigations of child abuse involving employees or agents of a facility providing care for a child.~~

Sec. 33. Section 232.71, subsection 17, Code 1993, is amended by striking the subsection.

Sec. 34. Section 232.141, subsection 8, Code 1993, is amended by striking the subsection.

Sec. 35. Section 232.147, subsection 3, paragraph g, Code 1993, is amended by striking the paragraph.

Sec. 36. Section 232.183, subsection 7, Code 1993, 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. 37. Section 234.35, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 38. Section 235A.13, subsection 7, Code 1993, is amended by striking the subsection.

Sec. 39. Section 235A.15, subsection 2, paragraph b, subparagraph (4), Code 1993, is amended by striking the subparagraph and renumbering the succeeding paragraph.

Sec. 40. Section 237.3, subsection 2, paragraph a, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Types of facilities which include but are not limited to group foster care facilities and family foster care homes.

Sec. 41. Section 237.13, subsection 6, Code 1993, is amended to read as follows:

6. The fund is not liable for the first ~~one hundred fifty~~ seventy-five dollars of any claim based on a single occurrence. ~~Claims may not be aggregated or accumulated to avoid payment of this deductible.~~ The fund is not liable for damages in excess of three hundred thousand dollars for a single foster home for all claims arising out of one or more occurrences during a calendar year.

Sec. 42. NEW SECTION. 237A.28 CHILD DAY CARE CREDIT FUND.

A child day care credit fund is created in the state treasury under the authority of the department of human services. The moneys in the fund shall consist of moneys deposited pursuant to section 422.100 and shall be used for child day care services as annually directed by the general assembly.

Sec. 43. Section 249A.26, subsection 2, Code 1993, is amended to read as follows:

2. The county of legal settlement shall be billed for fifty percent of the nonfederal share of the cost of case management provided to adults, day treatment, and partial hospitalization provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. For purposes of this section, ~~chronic mental illness does not include organic mental disorders~~ persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill.

Sec. 44. Section 422.12C, subsection 1, paragraphs f, g, and h, Code 1993, are amended by striking the paragraphs and inserting in lieu thereof the following:

f. For a taxpayer with net income of forty thousand dollars or more, zero percent.

Sec. 45. NEW SECTION. 422.100 ALLOCATION TO THE CHILD DAY CARE CREDIT FUND.

The treasurer of state shall credit during the first month of each quarter of each fiscal year to the child day care credit fund created in section 237A.28 the sum of six hundred fifty thousand dollars from the individual income tax withholding receipts.

Sec. 46. MI/MR/DD/BI TASK FORCE CONTINUED. The legislative council shall authorize $4,000 for consultant services and other expenses associated with continuation of the MI/MR/DD/BI service delivery system restructuring task force created in 1992 Iowa Acts, chapter 1241, section 26. The task force shall submit to the governor and general assembly on or before January 15, 1994, a five-year plan providing financing options for the MI/MR/DD/BI service delivery system. The plan shall be consistent with the provisions of the task force report submitted to the governor and general assembly in January 1993. In addition, the plan shall incorporate any task force recommendations concerning issues of legal settlement, mandated services, MI/MR/DD/BI planning councils, and other pertinent issues developed through June 30, 1993. Staffing services for the task force shall be provided by the legislative service bureau and the legislative fiscal bureau.

Sec. 47. WAIVER – NURSING HOME PILOT PROJECT.

1. The department of human services shall submit a waiver request to the United States department of health and human services as necessary for federal authorization to implement a pilot project to allow two nursing homes, as defined in section 155.1, selected through a request for proposals process to be operated under an alternative plan of operation which is outcome-based and which to the greatest extent possible provides the least restrictive environment for the residents of the nursing home. The waiver shall include a request for suspension of federal regulations which the department identifies as more restrictive than necessary in order to provide a safe and healthy environment for the residents of a nursing home. Following receipt of a waiver, the department of human services shall establish a request for proposals process and shall select two nursing homes to operate under an alternative system based upon criteria and requirements which shall include but are not limited to all of the following:

a. The nursing home shall not be subject to the requirements of chapter 135C.

b. The department shall adopt rules which establish the minimum requirements for an alternative nursing home including but not limited to the physical structure and services to be provided and the nursing home shall comply with the minimum requirements established.

c. The nursing home shall be constructed in compliance with applicable local building code requirements and the rules adopted for the alternative type of facility by the state fire marshal in accordance with the concept of the least restrictive environment for the facility residents.

d. The nursing home shall develop and implement a written plan of operation which is outcome-based and which establishes goals for the facility in meeting the outcomes identified. The plan shall include an ongoing process for identifying and attaining the outcomes identified. The plan shall also include a method for evaluation of the effect of the alternative form of operation on the quality of life of the residents and the need for alternative methods of staff development and service delivery.

e. The nursing home shall provide for input from the residents regarding the most appropriate environment and services to the residents.

f. The nursing home shall report annually to the department regarding the success of the nursing home in reaching the goals established and regarding recommendations for additional improvements in the structure and operation of the nursing home and the services provided the residents of the facility.

2. The department of human services shall annually report to the senate and house of representatives standing committees on human resources, on the progress of the pilot project and shall include in the report recommendations regarding the use of alternatives to standard nursing homes.

Sec. 48. REPEAL. Sections 232.187 and 234.42, Code 1993, are repealed.

Sec. 49. Section 252.43, Code 1993, is repealed.

Sec. 50. TRANSFER OF FUNCTIONS. If the department of human services determines that the functions required to be performed by any of the following entities can be performed by another entity under the authority of the department, notwithstanding the indicated section of the Code, if agreed to in writing and filed with the governor and the general assembly by each of the appointing authorities specified in statute for the entity, the function shall be performed by the entity identified by the department:

1. A multidisciplinary team assisting the department in the assessment, diagnosis, and disposition of a child abuse report pursuant to section 232.71 and permitted access to child abuse information pursuant to section 235A.15.

2. A regional out-of-state placement committee jointly established by the department of human services and the judicial department pursuant to section 232.187.

3. A foster care review committee created by the department of human services pursuant to section 234.42.

Sec. 51. ADOPTION AND FOSTER CARE INFORMATION SYSTEM. Moneys allocated to develop and maintain the state's implementation of the national adoption and foster care information system in 1992 Iowa Acts, chapter 1241, section 12, subsection 6, shall be considered encumbered for purposes of section 8.33.

Sec. 52. JUVENILE DETENTION HOMES — FISCAL YEAR 1993.

1. Of the funds appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1992, for reimbursement of counties for juvenile detention homes, pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 408, $520,000, or so much thereof as is necessary, shall be used in the fiscal year beginning July 1, 1992, and ending June 30, 1993, for state payment of financial aid of ten percent of the total cost of county or multicounty juvenile detention homes in accordance with the provisions of section 232.142, subsection 3 and are in addition to the funds provided to counties for this purpose pursuant to 1992 Iowa Acts, chapter 1241, section 12. However, if the funds designated by this section are insufficient to pay ten percent of the total cost of the homes, notwithstanding section 232.142, subsection 3, the state payment shall be less than ten percent and the department shall prorate the state payment as necessary to keep expenditures within the funds designated by this section.

2. The provisions of 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 408, requiring reimbursement of a county if a child has been adjudicated delinquent and remains in a county detention home awaiting placement for more than 72 hours after adjudication, shall apply only to the period beginning July 1, 1992, and ending September 30, 1992, and shall not apply for the remainder of the 1992-1993 fiscal year following September 30, 1992.

Sec. 53. USE OF CERTAIN FUNDS. Of the funds appropriated pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 412, subsection 1, $290,000 shall be used during the 1992-1993 fiscal year for services provided under the appropriation for community-based programs in 1992 Iowa Acts, chapter 1241, section 15.

Sec. 54. CLEAN AIR ACT — APPLICATION TO CAPITOL BUILDING. The capitol building shall be considered a public place pursuant to section 142B.1 and the rotunda area between the chambers of the house of representatives and the senate shall not be designated a smoking area pursuant to section 142B.2. A person who violates the provisions of this section is subject to the penalty provisions of section 142B.6.

Sec. 55. EMERGENCY RULES. If specifically authorized by a provision of this Act, the department of human services or the mental health and mental retardation commission may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions, the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules, and the rules shall be in effect

for a period of 180 days following the date the rules take effect. 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 biennium beginning July 1, 1993, and ending June 30, 1995. 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. 56. EFFECTIVE DATES.

1. Section 10 of this Act, relating to juvenile detention homes, and section 11, subsection 18 of this Act, relating to wrap-around services, take effect June 30, 1993.

2. Section 11, subsection 1, relating to provisions of various child and family services under the medical assistance program, subsection 8, relating to the cap on group foster care placements, and subsection 11, relating to the demonstration program to decategorize child welfare services, and section 13, subsection 1, relating to a determination of allocations by the state court administrator, and section 51, relating to moneys allocated for the adoption and foster care information system, being deemed of immediate importance, take effect upon enactment.

3. Sections 32, 33, 35 through 39 and 48 of this Act, take effect July 1, 1994.

4. Section 44 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to January 1, 1993, for tax years beginning on or after that date.

5. Section 52 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

6. Section 11, subsection 19 of this Act, relating to contract family foster care homes, takes effect June 30, 1993.

7. Section 53 of this Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

Approved April 26, 1993, except the items which I hereby disapprove and which are designated as Section 3, subsection 6 in its entirety and Section 21, subsections 1, 2, and 3 in their entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Speaker of the House this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. Speaker:

I hereby transmit House File 518, 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 the child and dependent care individual income tax credit, providing for the application of a civil penalty, providing for effective and applicability dates, and providing for retroactive applicability.

House File 518 is a major accomplishment for this session of the General Assembly. I commend the General Assembly for passing key elements of budget and program reform and generally avoiding the use of budget tactics that in the past have created problems in ensuing years.

The appropriations in this bill reflect landmark policy changes in welfare, Medicaid, child support collections and child welfare. I encourage the General Assembly to complete this work by passing the companion legislation to provide the substantive program language.

The Human Investment Program establishes a contract with welfare recipients that will benefit them and taxpayers. Self-sufficiency agreements will require recipients to assume personal responsibility for getting education or employment to become self-supporting. The state will provide assistance through our child care, medical care, job training, and job placement programs. This legislation provides incentives to save and improve family stability.

For the past five years, Iowa has improved child support collections and significant progress is made in this legislation. Employers reporting new hires, early confirmation of paternity, withholding of child support for the self-employed, and publication of the names of those who owe will increase collections. Additional steps should be approved next year — a centralized lien file so those who owe cannot hide assets and withholding auto registrations from those who don't pay.

This legislation continues our efforts to reform spending and get control over automatic pilot spending. Medicaid spending reforms included in the bill save over $3.5 million without reducing necessary care.

The child welfare initiatives contained in the bill redefine services for children in our state by placing greater emphasis on preventing placement of children in institutional care and strengthening services to keep families together and to keep children in a family home.

House File 518 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 6, in its entirety. This provision would change the method of determining reimbursements to nursing homes. This proposal should be studied further by the Health Care Reform Council to determine its impact on rural health care.

I am unable to approve the items designated as Section 21, subsections 1 through 3, in their entirety. These provisions include nonappropriation rhetoric concerning human services' field staff caseweight factors. While the bill establishes what are described as "optimum" caseweight levels, the amount of funding provided in the bill falls far short of the funding necessary to support the proposed "optimums". Moreover, the methodology for determining the caseweight factors was developed more than fifteen years ago and is outdated. It reflects none of the increases in productivity that have been made possible through better training and advances in technology. Furthermore, the concept of caseweight factors was established to guide the department in allocating staff across the state, it was not intended to be a mechanism for determining the department's budget.

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 518 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 173

APPROPRIATIONS FOR ENERGY CONSERVATION AND ENVIRONMENTAL PROTECTION

H.F. 625

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 473.11, for disbursement pursuant to section 473.11, to the following named agencies 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. 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 and Stripper Well fund for a total appropriation not to exceed:

1993-94 FY (Exxon) ..... $ 1,500,000
1993-94 FY (Stripper Well) ..... $ 1,500,000

The commission on community action agencies in cooperation with the energy fund disbursement council and state rate-regulated utilities shall submit a report to the general assembly by January 15, 1994, which provides recommendations, following depletion of the funds provided through disbursement of the energy conservation trust, for the identification of public and private funding alternatives for the continued funding of the energy conservation programs for low-income persons. The report shall also include alternatives for interagency co-funding, integrated service delivery, and program effectiveness of energy efficiency measurers as identified by the statewide low-income collaborative evaluation project and the bureau of weatherization strategic planning process.

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:

1993-94 FY ..... $ 825,000

b. For the state energy conservation program, and the energy extension service for purposes of maintaining their 1988-89 fiscal year funding levels, from the Exxon fund:

1993-94 FY ..... $ 238,200

c. For development costs of the local government energy bank program, from the Exxon fund:

1993-94 FY ..... $ 200,000

d. For administration of petroleum overcharge programs, an amount up to 5 percent per fiscal year, not to exceed the following amounts:

1993-94 FY ..... $ 300,000

Sec. 2. 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; 1991 Iowa Acts, chapter 270, section 3; and 1992 Iowa Acts, chapter 1233, section 4, is amended to read as follows:

There is appropriated from the funds available in the energy conservation trust, established in section ~~93.11~~ 473.11, for the fiscal period beginning July 1, 1986, and ending June 30, ~~1993~~ 1995, to the department of natural resources for disbursement under section ~~93.11~~ 473.11, 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:

Approved May 4, 1993

CHAPTER 174

SINGLE STATE INSURANCE REGISTRATION SYSTEM FOR MOTOR CARRIERS – APPROPRIATION

H.F. 328

AN ACT requiring a single state insurance registration system for motor carriers, and making an appropriation and providing an effective date.

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

Section 1. There is appropriated from the road use tax fund to the state department of transportation for the fiscal year beginning July 1, 1993, and ending June 30, 1994, in addition to other appropriations made to the department for that fiscal year, the following amount, or so much thereof as is necessary, for the purpose designated:

For the participation of the department in the single state insurance registration system for motor carriers, as required in section 327B.1, unnumbered paragraph 3, and for salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	250,000
.....	FTEs	2.00

Sec. 2. Section 327B.1, unnumbered paragraph 3, Code 1993, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

The department shall participate in the single state insurance registration system for motor carriers as provided in 49 U.S.C. § 11506.

Sec. 3. 1993 Iowa Acts, Senate File 363,* section 2, as enacted by the Seventy-fifth General Assembly, takes effect upon the effective date of this section.

Sec. 4. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 11, 1993

*Chapter 45 herein

CHAPTER 175

APPROPRIATIONS — REGULATORY BODIES

S.F. 266

AN ACT making appropriations and certain related statutory changes related 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, public employment relations board, department of commerce, and the racing and gaming commission and providing effective dates.

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, 1993, and ending June 30, 1994, 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:

..... $ 1,134,051

..... FTEs 117.00

The auditor of state may retain additional full-time equivalent positions as is reasonable and necessary to perform governmental subdivision audits which are reimbursable pursuant to section 11.20 or 11.21, to perform audits which are requested by and reimbursable from the federal government, and to perform work requested by and reimbursable from departments or agencies pursuant to section 11.5A or 11.5B. The auditor of state shall notify the department of management, the legislative fiscal committee, and the legislative fiscal bureau of the additional full-time equivalent positions retained.

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, 1993, and ending June 30, 1994, the following amount, 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:

..... $ 301,924

..... FTES 6.00

Of the amount appropriated in this subsection, $45,000 is to be used to purchase computer equipment and software necessary to continue and enhance the current records database.

2. For the costs associated with the addition of an additional member to the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

..... $ 2,000

3. For salary, support, maintenance, and for not more than one full-time equivalent position to be used to employ an attorney for the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

..... $ 42,400

4. For salary, support, maintenance, and for not more than one full-time equivalent position to be used to employ an administrative assistant II for the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

..... $ 38,400

*Chapter 163 herein

5. For necessary equipment to be purchased by the Iowa ethics campaign disclosure board established in House File 144,* if enacted by the general assembly during the 1993 regular session:

..... $ 38,150

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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, for the purposes designated**, *including that the department of employment services, the department of personnel, and the department of management shall ensure that all nonsupervisory full-time equivalent positions authorized and funded for the department of employment services in this section will be utilized during the fiscal year beginning July 1, 1993, and ending June 30, 1994, and during future fiscal years, and will not be held vacant, to ensure that the backlog of cases in that department will be reduced as rapidly as possible***:

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 6 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 6 of this Act prior to funding the appropriation in section 6 of this Act to the division of industrial services:

..... $ 2,313,374
..... FTEs 87.50

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.

2. DIVISION OF INDUSTRIAL SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,862,830
..... FTEs 31.00

Sec. 4. FEDERAL FUNDS APPROPRIATED FOR BUILDING REPAIR. There is appropriated out of the funds made available to this state pursuant to section 903 of the federal Social Security Act, as amended, for the fiscal year beginning July 1, 1993, and ending June 30, 1994, $645,000, to the department of employment services to correct health and safety problems including roof repair and asbestos removal and encapsulation for the state administrative office building located at 1000 East Grand, Des Moines, Iowa.

The moneys appropriated in this section shall not be obligated after June 30, 1995. The amount obligated pursuant to this section during any twelve-month period beginning on July 1 and ending on June 30 shall not exceed the amount available for obligation pursuant to section 903 of the federal Social Security Act, as amended, and as reflected in the accounts of the division of job service of the department of employment services and the United States department of labor.

Sec. 5. 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, 1993, and ending June 30, 1994, 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:

..... $ 6,275,387
..... FTEs 139.21

*Chapter 163 herein
**Item veto; see message at end of the Act

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 require that all communities which are scheduled to be surveyed during the fiscal year shall contribute a percentage of the cost of completing the community surveys as agreed to by the department and each community to be surveyed.

*1. *The department of employment services shall provide services throughout the fiscal year beginning July 1, 1993, and ending June 30, 1994, in all communities in which job service offices are operating on July 1, 1993. 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, 1993, and ending January 20, 1994. The division shall also establish a substantially similar schedule for such hearings for the period beginning January 20, 1994, and ending June 30, 1994. 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, 1994, and ending June 30, 1994.**

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.

Sec. 6. 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, 1993, and ending June 30, 1994, 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 appropriation made to the division of industrial services 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

Sec. 7. 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, 1993, and ending June 30, 1994, 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:

..... $ 474,628

..... FTEs 22.00

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 340,548

..... FTEs 10.00

*Item veto; see message at end of the Act

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 211,539
..... FTEs 24.00

It is the intent of the general assembly that a process for the administrative review of requests for postconviction relief under chapter 822 and from final decisions made by administrative law judges appointed by the department of corrections, be established in the fair hearings and appeals division of the department of inspections and appeals. The department shall review existing judicial procedures for the processing of requests for postconviction relief and make recommendations to the general assembly by the commencement of the legislative session which convenes in January 1994, for the establishment of such an administrative process.

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 511,332
..... FTEs 34.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,374,975
..... FTEs 101.00

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 564,586
..... FTEs 13.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 44,700
..... 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. STATE FOSTER CARE REVIEW BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 133,849
..... FTEs 4.00

It is the intent of the general assembly that the state citizen foster care review board, in conjunction with the department of human services and the judicial department, develop a proposal for the establishment of one statewide foster care review system which provides for citizen involvement. The proposal shall include procedural protocols and outcome measures for evaluation purposes. The proposal shall be submitted to the legislative council and the department of management on or before December 1, 1993. Pilot projects under the proposal may be implemented during the fiscal year beginning July 1, 1993, and ending June 30, 1994, if the pilot projects can be funded within budget limitations.

Sec. 8. 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, 1993, and

ending June 30, 1994, 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:

..... $ 7,622,502
..... FTEs 140.80

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:

..... $ 8,778,665

Sec. 9. The department of inspections and appeals may charge state departments, agencies, and commissions for services rendered and the payment received shall be considered repayment receipts as defined in section 8.2.

Sec. 10. ROAD USE TAX FUND. There is appropriated from the use tax receipts collected pursuant to section 423.7 prior to their deposit in the road use tax fund pursuant to section 423.24, subsection 1, to the department of inspections and appeals for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 898,938

Sec. 11. 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, 1993, and ending June 30, 1994, 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:

..... $ 703,296
..... FTEs 12.60

Sec. 12. 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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, for the purposes designated:

1. PROFESSIONAL LICENSING AND REGULATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 889,687
..... FTEs 14.00

b. There is appropriated from the title guaranty fund created in section 16.91 to the professional licensing and regulation division, an amount up to $25,000, to be used to pay half the cost of employing an auditor for real estate broker trust accounts. In addition to the amount appropriated in this paragraph, the commission may increase the license fees provided for in section 543B.27 in an amount sufficient to pay half the cost of employing an auditor for real estate broker trust accounts.

2. ADMINISTRATIVE SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	105,080
..... FTEs	2.00

It is the intent of the general assembly that the two positions authorized in this subsection for the division shall coordinate the administrative services to be provided to the divisions in the department. These two positions are under the direct supervision of, and shall report to, the director of the department.

3. ALCOHOLIC BEVERAGES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	1,932,700
..... FTEs	34.50

4. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	5,314,308
..... FTEs	85.00

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, 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:

..... $	1,039,372
..... 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:

..... $	2,707,415
..... FTEs	85.00

The insurance division may reallocate authorized full-time equivalent positions as necessary to respond to accreditation recommendations or requirements. The insurance division expenditures for examination purposes may exceed the projected receipts, refunds and reimbursements, estimated pursuant to section 505.7, subsection 7, including the expenditures for retention of additional personnel, if such expenditures are fully reimburseable and the division first does both of the following:

1. Notifies the department of management, legislative fiscal bureau, and the legislative fiscal committee of the need for such expenditures.

2. Files with each of the entities named in subsection 1 the legislative and regulatory justification for such expenditures, along with an estimate of the expenditures.

7. UTILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,830,885
..... FTEs 77.00

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. 13. 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, 1993, and ending June 30, 1994, the following amount, 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:

..... $ 1,672,245
..... FTEs 19.27

2. Notwithstanding section 8.39, the racing and gaming commission shall not expend funds appropriated to the commission for the fiscal year beginning on July 1, 1993, and ending on June 30, 1994, for the regulation of any racetrack unless such regulation was authorized on or before July 1, 1992. Additionally, funds appropriated for the regulation of a racetrack authorized to offer live racing or simulcasting shall revert to the general fund and shall not be used for any other purpose if such track does not offer, or ceases to offer, live racing or simulcasting.

Sec. 14. 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, 1993, and ending June 30, 1994, 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 excursion boat gambling laws, and for not more than the following full-time equivalent positions:

..... $ 601,682
..... FTEs 12.51

Sec. 15. Section 13B.4, subsection 7, Code 1993, is amended to read as follows:

7. The state public defender shall adopt rules pursuant to chapter 17A, as necessary, to administer this chapter and section 815.9.

Sec. 16. Section 13B.10, subsection 2, Code 1993, is amended to read as follows:

2. A determination of indigence shall not be made except upon the basis of information contained in a detailed financial statement submitted by the person or by the person's parent, guardian, or custodian. The financial statement shall be in the form prescribed by the ~~department~~ state public defender. If a person is determined to be indigent and given legal assistance, the financial statement shall be filed in the person's court file and with the ~~department~~ state public defender. A defendant who is employed shall execute a wage assignment for indigent defense costs to be paid as a precondition for appointment of counsel.

Sec. 17. Section 237.23, Code 1993, is amended to read as follows:

237.23 AUTOMATIC REPEAL.

Sections 237.15 through 237.22, and this section, are repealed July 1, ~~1996~~ 1994.

**Sec. 18. Section 534.102, subsection 28, Code 1993, is amended to read as follows:*

28. "Superintendent" means the superintendent of savings and loan associations who is the ~~director of the department of commerce~~ auditor of state.*

Sec. 19. Section 543B.46, subsections 6 and 7, Code 1993, are amended to read as follows:

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~~ The commission may upon reasonable cause, or as a part of or after an investigation, 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.~~

7. The examination of a trust account shall ~~have been~~ be conducted ~~within the twelve months immediately preceding expiration of the license or at such other times as directed~~ by the commission or the commission's authorized representative. ~~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.~~

Sec. 20. Section 546.2, subsection 2, Code 1993, is amended to read as follows:

2. The chief administrative officer of the department is the director. The director shall be appointed annually by the governor~~, subject to the confirmation of the senate, and shall serve at the pleasure of the governor~~ from among those individuals who serve as heads of the divisions within the department. The appointment shall rotate among the division heads such that the division head of any one division shall not be appointed to be the director for a second year until such time as each division head has served as the director. A division head appointed to be the director shall fulfill the responsibilities and duties of the director in addition to the individual's responsibilities and duties as the head of a division. ~~The director is subject to reconfirmation after four years in office. The director shall be appointed on the basis of executive and administrative abilities but shall not have been an officer or employee of any bank, credit union, savings and loan association, or insurance company. The salary shall be fixed by the governor within a range established by the general assembly.~~ However, the administrator of the alcoholic beverages division shall serve as director until June 30, 1995.

Sec. 21. Section 815.4, Code 1993, is amended to read as follows:

*Item veto; see message at end of the Act

815.4 SPECIAL WITNESSES FOR INDIGENTS.

Witnesses secured for indigent or partially indigent defendants under R.Cr.P. 19 must file a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant.

Sec. 22. Section 815.5, Code 1993, is amended to read as follows:

815.5 EXPERT WITNESSES FOR STATE AND DEFENSE.

Notwithstanding the provisions of section 622.72, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for ~~indigents~~ an indigent or partially indigent person referred to in section 815.4, or called by the state in criminal cases.

Sec. 23. Section 815.9, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. For purposes of this chapter, section 68.8, section 222.22, chapter 232, chapter 814, and the rules of criminal procedure, the following apply:

a. A person is indigent if the person has an income level at or below one hundred fifty percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

b. A person is not indigent if the person has an income level greater than one hundred fifty percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

c. A person with an income level greater than one hundred fifty percent of the most recently revised poverty income guidelines published by the United States department of health and human services may be deemed partially indigent by the court pursuant to a written finding that, given the person's circumstances, not appointing counsel at public expense would cause the person substantial hardship. However, the court shall require a person deemed partially indigent to contribute to the cost of representation in accordance with rules adopted by the state public defender.

Sec. 24. Section 815.9, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. A determination of the indigent status of a person shall be made on the person's initial appearance before a court. If a person is granted legal assistance as an indigent or partial indigent, the financial statement shall be filed and permanently retained in the person's court file. The state public defender shall adopt rules prescribing the form and content of the financial statement and the criteria by which a determination of indigency shall be based. The financial statement shall contain sufficient information to allow the determination to be made of whether the person meets the guidelines set out in subsection 1 and shall be accompanied by the person's most recent pay slip, if employed.

Sec. 25. NEW SECTION. 815.9A RECOVERY OF INDIGENT DEFENSE COSTS.

1. Costs incurred for indigent defense shall be paid to the clerk of the district court by the person receiving the services not later than the date of sentencing or, if the person is acquitted or the charges are dismissed, within thirty days of the acquittal or dismissal, as follows:

a. If the person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the indigent defense costs to be recovered in accordance with rules adopted by the state public defender.

b. If the person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the indigent defense costs shall be recovered in accordance with rules adopted by the state public defender.

*Sec. 26. DIRECTIONS TO CODE EDITOR. The Code editor shall make the following changes to conform existing sections of the Code to changes made in this Act:

*Provisions relating to repeal of chapter 546 did not become law

1. All references to the alcoholic beverages division shall be changed to the "department" or "department of alcoholic beverages" as appropriate.
2. All references to the utilities division shall be changed to the "department" or "department of utilities" as appropriate.
3. All references to the insurance division shall be changed to the "department" or "department of insurance" as appropriate.
4. All references to the banking division shall be changed to the "department" or "department of banking" as appropriate.
5. All references to the credit union division shall be changed to the "department" or "department of credit unions" as appropriate.
6. All references to the professional licensing and regulation division shall be changed to the "department" or "department of professional licensing and regulation" as appropriate.
7. All references to the department of commerce shall be changed to reflect the repeal of chapter 546, as appropriate.

If necessary and appropriate, the Code editor shall include reference changes which are not made pursuant to this section in a Code editor's bill to be brought before the general assembly for consideration during the 1994 regular session.

Sec. 27. 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. 28. EFFECTIVE DATES. Section 13, subsection 2, of this Act, being deemed of immediate importance, is effective upon enactment. Sections 15 and 16, and sections 23 and 24, of this Act take effect on September 1, 1993.

Approved May 19, 1993, except the items which I hereby disapprove and which are designated as that portion of Section 3, unnumbered and unlettered paragraph 1 which is herein bracketed in ink and initialed by me; Section 5, subsections 1 and 2 in their entirety; and Section 18 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 266, an Act making appropriations and certain related statutory changes related 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, public employment relations board, department of commerce, and the racing and gaming commission and providing effective dates.

Senate File 266 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

Among other things, Senate File 266 amends the state's laws relating to indigent defense. It better defines the term "indigency" and, in doing so, makes it clear that only those who are "truly" indigent, will be provided legal counsel at public expense. Persons who can pay some, but not all, of their legal costs, will have counsel provided to assist them, however, they will be required to contribute to the payment of those costs. The state public defender is given

authority in rules to develop the criteria for determining indigency and the procedures for recovering the costs of representation from persons who can pay. These changes in the law are consistent with the recommendations I made to the legislature and will be extremely helpful in containing the costs of indigent defense. I am, however, disappointed that the legislature deliberately underfunded the program by $1 million and chose not to eliminate the statutory provision that allows a nonindigent person to have legal counsel provided simply by refusing to hire his or her own attorney.

I am also disappointed that the legislature did not fund the position in the Racing and Gaming Commission to monitor Indian gaming in Iowa. While the gaming which occurs on Indian land is not subject to the state's laws which regulate gambling, it must comply with the terms and conditions of the compacts which have been negotiated with the tribes. All three Iowa tribes have agreed in their compacts to be bound by the same limits and controls that apply to other non-Indian gambling in the state. Remedies are available to the state in the compacts if the tribes fail to comply and it is only through the compacts that the state can "regulate" the gaming that occurs on Indian land. Unlike many other states, we have been successful in negotiating compacts which recognize the sovereign rights of Iowa tribes but which, to the extent possible under federal law, place their non-Indian competitors on a level playing field. While some in the legislature believe we should not be concerned about what happens at Indian casinos, I believe the state has a responsibility to its citizens to assure that gaming on Indian land, like other gambling in the state, is operated honestly and with financial integrity to deter crime and corrupting influences. Even in the absence of funding for this position, I am committed to monitoring compliance with the compacts and will dedicate the resources necessary to do so.

I am unable to approve the designated portion of Section 3, unnumbered and unlettered paragraph 1. This language would remove the discretion of the director of the Department of Employment Services in filling vacant positions within the agency. Personnel decisions within the department are the prerogative of the executive branch. The director of the department must have the authority to adjust personnel to respond to needs within the agency.

I am unable to approve the item designated as Section 5, subsection 1, in its entirety. This provision would require the Department of Employment Services to maintain all Job Services offices in operation as of July 1, 1993. The department's flexibility to provide services where they are most needed and in the most cost effective manner should not be restrained.

I am unable to approve the item designated as Section 5, subsection 2, in its entirety. This provision specifies the number, location and schedule of hearings for contested workers' compensation cases which the Industrial Services Division in the Department of Employment Services would be required to conduct through January 20, 1994. The division must retain flexibility in conducting workers' compensation hearings in order to respond to the needs of employers and injured workers.

I am unable to approve the item designated as Section 18, in its entirety. This provision would make the Auditor of the state the administrative head of the Division of Savings and Loans within the Department of Commerce. The State Auditor is authorized by law to audit the expenses of all state departments and agencies, including the Division of Savings and Loans. This provision would create a conflict for the persons elected to serve as the State's Auditor by requiring them to audit the agency they are responsible for administering.

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 266 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 176

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES

H.F. 623

AN ACT relating to appropriations and revenue involving agriculture and natural resources, making related statutory changes, and providing effective dates.

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

DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Section 1. GENERAL APPROPRIATION. 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, 1993, and ending June 30, 1994, 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:

..... $ 1,031,045

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", $126,000 and 4.00 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 the values of agricultural land.

b. For the operations of the dairy trade practices bureau:

..... $ 70,565

c. For the operations of the agricultural marketing bureau:

..... $ 817,276

Of the funds appropriated in this paragraph "c", $313,880 and 7.00 FTEs shall be used to support horticulture.

d. For the purpose of performing commercial feed audits:

..... $ 59,474

e. For the purpose of performing fertilizer audits:

..... $ 59,474

f. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:

..... FTEs 50.20

2. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,687,904

..... FTEs 128.90

b. To cover the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... $ 636,682

3. LABORATORY DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, including the administration of the gypsy moth program:

..... $ 782,329

Of the amount appropriated under this paragraph "a", $110,000 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:
..... $ 726,740
c. For the operations of the pesticide programs:
..... $ 1,186,603
d. For the operations of the fertilizer programs:
..... $ 624,317
e. Funds appropriated by this subsection are for the salaries and support of not more than the following full-time equivalent positions:
..... FTEs 78.00

4. SOIL CONSERVATION DIVISION

a. For salaries, support, maintenance, assistance to soil conservation districts, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 5,138,029
..... FTEs 170.52

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 161A:
..... $ 5,918,606

c. The following requirements apply to the moneys appropriated in 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 161A.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 as provided in section 161A.73.

(3) 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 as provided in section 161A.73.

(4) The state soil conservation committee created in section 161A.4 may allocate moneys to conduct research and demonstration projects to promote conservation tillage and nonpoint source pollution control practices.

(5) The financial incentive payments may be used in combination with department of natural resources moneys.

d. The provisions of section 8.33 shall not apply to the moneys appropriated in paragraph "b". Unencumbered or unobligated moneys remaining on June 30, 1997, from moneys appropriated in paragraph "b" for the fiscal year beginning July 1, 1993, shall revert to the general fund on August 31, 1997.

Sec. 2. FARMERS' MARKET COUPON PROGRAM. 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, 1993, and ending June 30, 1994, 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 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:
..... $ 186,751
..... FTEs 1.00

Sec. 3. PSEUDORABIES ERADICATION PROGRAM.

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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 900,000

2. Persons, including organizations interested in swine production in this state and in the promotion of Iowa pork products who contribute support to the program, are encouraged to increase financial support for purposes of ensuring the program's effective continuation.

Sec. 4. HORSE AND DOG RACING.

1. There is appropriated from the moneys available under section 99D.13 to the regulatory division of the department of agriculture and land stewardship for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 182,560

*2. *a. The state veterinarian shall assume responsibilities performed by the Iowa racing and gaming commission in supervising and regulating the health of animals racing under chapter 99D.*

b. Notwithstanding sections of this Act amending chapter 99D, the Iowa racing and gaming commission shall satisfy all current contracts with commission veterinarians. The commission shall not renew or extend a contract beyond December 1, 1993. As each contract expires, a departmental veterinarian shall assume responsibilities of the commission veterinarian. The Iowa racing and gaming commission shall support payments under existing contracts with other commission veterinarians from moneys appropriated to the commission pursuant to Senate File 266, as enacted by the seventy-fifth general assembly for the fiscal year beginning July 1, 1993, and ending June 30, 1994. However, moneys remaining which would otherwise be used to support a commission veterinarian shall be transferred to the department within ten days after the cessation of duties by that commission veterinarian.

c. The total amount of the moneys used to support all veterinarians of the commission and the department, as required to administer chapter 99D, and testing by Iowa state university of science and technology shall not exceed $645,000, unless the commission determines that additional moneys transferred to the department are required to support departmental veterinarians at a particular track.

d. Unless the commission determines that additional moneys transferred to the department are required to support departmental veterinarians at a particular track, not more than $45,000 shall be used to support a veterinarian at the Waterloo track, not more than $90,000 shall be used to support a veterinarian at the Council Bluffs track, not more than $45,000 shall be used to support a veterinarian at the Dubuque track, not more than $75,000 shall be used to support a veterinarian at the Des Moines track, and not more than $390,000 shall be used to support Iowa state university of science and technology.

*e. The racing and gaming commission and the department of agriculture and land stewardship shall provide for the orderly transition of responsibilities under this Act, including the adoption of rules and the transfer of personnel required to implement this Act.**

INTERSTATE COMPACT ON AGRICULTURAL GRAIN MARKETING

Sec. 5. APPROPRIATION. There is appropriated from the general fund of the state to the interstate agricultural grain marketing commission for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 75,000

*Item veto; see message at end of the Act

DEPARTMENT OF NATURAL RESOURCES

Sec. 6. GENERAL APPROPRIATION. There is appropriated from the general fund of the state to the department of natural resources 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. ADMINISTRATIVE AND SUPPORT SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,705,345
..... FTEs 116.70

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,337,474
..... FTEs 199.83

The department shall transfer all managerial responsibilities relating to property known as Plum Grove in Iowa City to the department of cultural affairs.

3. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,416,046
..... FTEs 48.71

4. ENERGY AND GEOLOGICAL RESOURCES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,642,474
..... FTEs 53.00

5. ENVIRONMENTAL PROTECTION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,064,046
..... FTEs 169.00

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

Sec. 7. STATE FISH AND GAME PROTECTION FUND — APPROPRIATION TO THE DIVISION OF FISH AND WILDLIFE.

1. 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For administrative support, and for salaries, support, maintenance, equipment, and miscellaneous purposes:

..... $ 19,933,807

2. 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 joint appropriations subcommittee on agriculture and natural resources concerning the commission's approval.

Sec. 8. MARINE FUEL TAX RECEIPTS — CAPITALS; NONCAPITALS; AND BOATING FACILITIES AND ACCESS. 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, 1993, and ending June 30, 1994, 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:

..... $ 200,000

2. For purposes of maintaining and developing boating facilities and access to public waters by the parks and preserves division:

..... $ 411,311

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30, 1994, from moneys appropriated by this section as provided in subsections 1 and 2, may be expended during the fiscal year beginning July 1, 1994, and ending June 30, 1995, and shall not revert to the general fund until August 31, 1995.

Sec. 9. ALL-TERRAIN VEHICLE AND SNOWMOBILE FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1993, 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, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of enforcing snowmobile laws as part of the state snowmobile program administered by the department of natural resources:

..... $ 100,000

Sec. 10. VESSEL FEES — TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1993, from the fees deposited under section 462A.52 to the fish and game protection fund and appropriated to the department of natural resources for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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

IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

Sec. 11. LIVESTOCK PRODUCERS ASSISTANCE PROGRAM.

1. There is appropriated from the general fund of the state to Iowa state university of science and technology, for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

To establish and administer a livestock producers assistance program to provide on-site assistance to persons involved in livestock production in order to increase the efficiency, productivity, and profitability of their operations:

..... $ 300,000

2. As a condition of this appropriation, the university shall strive to ensure that the program becomes increasingly self-sufficient.

3. The provisions of section 8.33 shall not apply to the moneys appropriated in this section. Unencumbered or unobligated moneys remaining on June 30, 1997, from moneys appropriated in this section for the fiscal year beginning July 1, 1993, shall revert to the general fund on August 31, 1997.

RESOURCE ENHANCEMENT AND PROTECTION

Sec. 12. GENERAL APPROPRIATION. 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 to the Iowa resources enhancement and protection fund, in lieu of the appropriation made in section 455A.18, for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the sum of $7,000,000, of which all moneys shall be allocated as provided in section 455A.19.

Sec. 13. DEAPPROPRIATION. The appropriation from the general fund of the state to the Iowa resources enhancement and protection fund for the fiscal year beginning July 1, 1992, and ending June 30, 1993, in 1992 Iowa Acts, chapter 1239, section 12, is reduced, as a result of the governor's item veto in section 12, by the following amounts for the purposes designated:

1. Allocation to the department of natural resources, in subsection 2, paragraph "a":
..... $ 500,000

2. Allocation to the department of agriculture and land stewardship, in subsection 2, paragraph "b":
..... $ 400,000

MISCELLANEOUS

Sec. 14. APPROPRIATION — ORGANIC NUTRIENT MANAGEMENT PROGRAM.

1. Prior to any appropriation made pursuant to section 455E.11, subsection 2, paragraph "c", there is appropriated for the fiscal year beginning July 1, 1993, and ending June 30, 1994, from the household hazardous waste account of the groundwater protection fund created in section 455E.11, to the water protection fund created in section 161C.4 for deposit in an organic nutrient management account which shall be created by the division of soil conservation of the department of agriculture and land stewardship, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purposes of supporting an organic nutrient management program as provided in this section:
..... $ 900,000

2. a. The division of soil conservation within the department of agriculture and land stewardship shall establish and administer an organic nutrient management program to provide for the allocation of cost-share moneys as financial incentives to eligible persons applying to participate in the program. The financial incentives shall be used for purposes of establishing organic nutrient management systems which shall facilitate the proper utilization of livestock waste as a nutrient source, and to protect the water resources of this state from livestock waste runoff.

b. Moneys used to support water protection projects and practices pursuant to section 161C.2 shall not be supported from the organic nutrient management account. Notwithstanding section 8.33, moneys in the organic nutrient management account shall not revert as provided in that section, but shall be expended as provided in this section in subsequent fiscal years.

c. A person shall not be eligible to participate in this program, unless the person is an individual who is actively engaged in farming as provided in section 9H.1, subsection 1, paragraphs "a" through "c", or the person is a family farm corporation, family farm limited partnership, or a family trust, all as defined in section 9H.1.

d. The division shall adopt rules to administer this section, including rules relating to the execution of a contract to establish an organic nutrient management system. The rules may require that an eligible person participating in the program maintain the organic nutrient management system for a minimum number of years as a condition to receiving financial incentives. The agreement may be enforced by the division or by a soil and water conservation district as provided by the division, in the same manner as provided for a contract establishing soil and water conservation practices under chapter 161A.

3. The appropriation provided in subsection 1 shall be subject to the following conditions:

a. Not more than 2 percent of the amount shall be used for purposes of administering the program by the soil conservation division.

b. The amount of moneys allocated in cost-share payments to a person qualifying under the program shall not exceed 50 percent of the estimated cost of establishing a system or 50 percent of the actual cost, whichever is less.

c. A person qualifying under the program shall not receive more than $7,500 in financial incentives under this program.

Sec. 15. REVENUE ADMINISTERED BY THE IOWA COMPREHENSIVE UNDERGROUND STORAGE TANK BOARD – TRANSFER. There is appropriated from the unassigned revenue fund administered by the Iowa comprehensive underground storage tank board, to the department of natural resources for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 145,000

However, this appropriation is reduced to the extent that the board determines that other state expenditures qualify as a match for moneys appropriated by the United States for purposes of supporting the activities performed by the department in carrying out the underground storage tank program.

Sec. 16. STATE NURSERIES. Notwithstanding section 17A.2, subsection 10, paragraph "g", the department of natural resources shall adopt administrative rules establishing 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. 17. TRUST FUND INFORMATION. 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 452A.79.
7. The energy research and development fund provided in section 473.11, enacted in 1993 Acts, Senate File 74.*

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. 18. DEPARTMENTAL INFORMATION REQUIRED.

1. 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,

*Chapter 11 herein

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 authorized in law for the departments.

2. 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.

3. The department of agriculture and land stewardship shall provide the legislative fiscal bureau information and financial data on at least a monthly basis, relating to the internal budget system used by the department. The information shall include but is not limited to financial data covering the department's budget prior to the start of the fiscal year, and to the department's actual expenditures after the accounting system has been closed for that fiscal year.

Sec. 19. AIR QUALITY STANDARDS.

1. During the fiscal year for which funds are appropriated by section 6 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. However, this subsection shall not be effective upon the delegation by the United States to this state of the air operating permit program as provided by the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549.

2. Notwithstanding section 455B.133A, the annual fee of twenty-five dollars per ton on hazardous air pollutants imposed pursuant to that section is not required to be paid, if both of the following occur:

a. The Seventy-fifth General Assembly does not enact legislation which authorizes the state to assume responsibilities delegated by the United States relating to the air operating permit program as provided by the federal Clean Air Act Amendments of 1990, Pub. L. No. 101-549.

b. The fee on hazardous air pollutants included in Title III of the federal Clean Air Act Amendments of 1990 is imposed by the United States.

Sec. 20. DEPARTMENTAL STUDIES AND PROJECTS.

1. The department of agriculture and land stewardship and the department of inspections and appeals shall jointly study methods of coordinating inspections currently performed by the department of agriculture and land stewardship, including but not limited to the inspections of weights and measures. The departments shall study methods to increase efficiency and cost-savings. The departments shall prepare and submit a report to the general assembly not later than January 10, 1994, detailing findings and recommendations of the departments.

2. The department of agriculture and land stewardship shall establish a pilot project in a geographic area in which the inspections of weights and measures are performed based upon criteria which prioritizes inspections according to those weights and measures which are most likely not to be in compliance with state standards.

3. The department of natural resources shall study the effects of urban contamination, if any, of state waters. The department shall prepare a report based on the study which shall be delivered to the secretary of the senate and chief clerk of the house of representatives not later than January 10, 1994.

Sec. 21. PREFERENCE PROVIDED – PERSONS MEETING ELIGIBILITY REQUIREMENTS OF THE GREEN THUMB PROGRAM. In its employment of persons in temporary positions in conservation and outdoor recreation, the department of natural resources shall give preference to persons meeting eligibility requirements for the green thumb program and to persons working toward an advanced education in natural resources and conservation.

Sec. 22. REDUCTIONS IN FULL-TIME EQUIVALENT POSITIONS — GENERAL FUND SUPPORTED APPROPRIATIONS. The number of full-time equivalent positions, as defined in section 8.36A, within the department of natural resources which are reduced in this Act from the number of full-time equivalent positions provided for pursuant to 1992 Iowa Acts, chapter 1239, apply only to full-time equivalent positions supported by appropriations from the general fund of the state.

Sec. 23. BRUSHY CREEK RECREATION AREA. The campground used for equestrian activities on the northern part of the Brushy Creek recreation area shall be a permanent campground for such activities. The department in conjunction with the Brushy Creek recreation trails advisory board shall implement the provisions of section 455A.8A, as enacted in this Act, including the development and completion of trail improvements during the construction of the dam. The recreational improvements shall be completed upon completion of the dam.

Sec. 24. LIMITATION ON EXPENDITURES — BRUSHY CREEK STATE RECREATION AREA. Not more than $1,400,000 shall be allocated in the fiscal year beginning July 1, 1993, and ending June 30, 1994, from the open spaces account of the resources enhancement and protection fund created in section 455A.18, for purposes of supporting the construction of the dam and water impoundment at the Brushy Creek state recreation area.

Sec. 25. REVERSION POSTPONEMENT.

1. Notwithstanding section 8.33, and 1992 Iowa Acts, chapter 1239, section 8, unencumbered or unobligated moneys remaining on June 30, 1993, from moneys appropriated for purposes of funding projects traditionally funded from marine fuel tax receipts as provided in 1992 Iowa Acts, chapter 1239, section 8, subsections 1 and 4, may be expended during the fiscal year beginning July 1, 1993, and ending June 30, 1994, and shall not revert to the general fund until August 31, 1994.

2. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining on June 30, 1993, from moneys appropriated pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 402, may be expended during the fiscal year beginning July 1, 1993, and ending June 30, 1994, and shall not revert to the general fund until August 31, 1994.

STATUTORY CHANGES

Sec. 26. Section 18.18, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. The department shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

**Sec. 27. Section 99D.2, Code 1993, is amended by adding the following new subsection:*

NEW SUBSECTION. *9. "State veterinarian" means the veterinarian appointed by the secretary of agriculture pursuant to section 159.5.**

**Sec. 28. Section 99D.13, subsection 2, Code 1993, is amended to read as follows:*

2. Winnings from each racetrack forfeited under subsection 1 shall escheat to the state and to the extent appropriated by the general assembly shall be used by the department of agriculture and land stewardship to administer section 99D.22. The remainder shall be ~~paid over to the commission~~ used by the state veterinarian *to pay all or part of the cost of drug testing at the tracks.* The remainder shall be paid over to the commission. *To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from harness racing meets, the remainder shall be used as provided in subsection 3. To the extent the remainder paid to the commission, less the cost of drug testing, is from unclaimed*

*Item veto; see message at end of the Act

*winnings from licensed dog tracks, the commission shall remit annually five thousand dollars, or an equal portion of that amount, to each licensed dog track to carry out the racing dog adoption program pursuant to section 99D.27. To the extent the remainder paid over to the commission, less the cost of drug testing, is from unclaimed winnings from tracks licensed for dog or horse races, the commission, on an annual basis, shall remit one-third of the amount to the treasurer of the city in which the racetrack is located, one-third of the amount to the treasurer of the county in which the racetrack is located, and one-third of the amount to the racetrack from which it was forfeited. If the racetrack is not located in a city, then one-third shall be deposited as provided in chapter 556. The amount received by the racetrack under this subsection shall be used only for retiring the debt of the racetrack facilities and for capital improvements to the racetrack facilities.**

**Sec. 29. Section 99D.23, Code 1993, is amended to read as follows:*

99D.23 ~~COMMISSION~~ STATE *VETERINARIAN* ~~AND CHEMIST~~.

1. The state veterinarian shall supervise and regulate the health of animals racing under this chapter. The department of agriculture and land stewardship may employ or contract with persons required to assist the state veterinarian in performing duties required under this chapter. The department shall designate or appoint departmental veterinarians to assist the state veterinarian. The department and the racing and gaming commission shall at all times cooperate in administering this chapter, and shall share records and information, including results of inspections and tests as required.

~~1~~ 2. *The* ~~commission~~ department of agriculture and land stewardship *shall employ one or more chemists or contract with a qualified chemical laboratory to determine by chemical testing and analysis of saliva, urine, blood, or other excretions or body fluids whether a substance or drug has been introduced which may affect the outcome of a race or whether an action has been taken or a substance or drug has been introduced which may interfere with the testing procedure. The* ~~commission~~ department of agriculture and land stewardship *shall adopt rules under chapter 17A concerning procedures and actions taken on positive drug reports. The* ~~commission~~ department of agriculture and land stewardship *may adopt by reference the standards of the national association of state racing commissioners, the association of official racing chemists, and New York jockey club, or the United States trotting association, or may adopt any other procedure or standard. The* ~~commission~~ department *has the authority to retain and preserve by freezing, test samples for future analysis.*

~~2~~ 3. *The* ~~commission~~ department of agriculture and land stewardship *shall employ or contract with one or more veterinarians* under the direction of the state veterinarian *to extract or procure the saliva, urine, blood, or other excretions or body fluids of the horses or dogs for the chemical testing purposes of this section. A* ~~commission~~ departmental *veterinarian shall be in attendance at every race meeting held in this state.*

~~3~~ 4. *A chemist or veterinarian who willfully or intentionally fails to perform the functions or duties of employment required by this section shall be banned for life from employment at a race meeting held in this state.*

~~4~~ 5. *The* ~~commission~~ state *veterinarian shall keep a continuing record of the racing soundness of all horses examined by a* ~~commission~~ departmental *veterinarian at a racetrack.**

**Sec. 30. Section 99D.25, subsections 3, 4, 5, 7, 9, 10, and 11, Code 1993, are amended to read as follows:*

3. ~~The~~ All of the *following conduct is prohibited:*

a. The entering of a horse or dog in a race by the trainer or owner of the horse or dog if the trainer or owner knows or if by the exercise of reasonable care the trainer or owner should know that the horse or dog is drugged or numbed;.

*Item veto; see message at end of the Act

b. The drugging or numbing of a horse or dog with knowledge or with reason to believe that the horse or dog will compete in a race while so drugged or numbed. However, the ~~commission~~ department of agriculture and land stewardship *may by rule establish permissible trace levels of substances foreign to the natural horse or dog that the* ~~commission~~ department *determines to be innocuous*~~;~~.

c. The willful failure by the operator of a racing facility to disqualify a horse or dog from competing in a race if the operator has been notified that the horse or dog is drugged or numbed, or was not properly made available for tests or inspections as required by the ~~commission;~~ ~~and~~ department of agriculture and land stewardship.

d. The willful failure by the operator of a racing facility to prohibit a horse or dog from racing if the operator has been notified that the horse or dog has been suspended from racing.

4. The ~~owners~~ owner *of a horse or dog* ~~and their agents and employees~~ or an agent or employee of the owner *shall permit* ~~a member of the commission or a person employed or appointed by the commission~~ the department of agriculture and land stewardship *to* ~~make~~ conduct or order *tests as the* ~~commission~~ state veterinarian *deems proper in order to determine whether* ~~a~~ the *horse or dog has been improperly drugged. The fact that purse money has been distributed prior to the issuance of a test report shall not be deemed a finding that* ~~no~~ a *chemical substance has* not *been administered unlawfully to the horse or dog earning the purse money. The findings of the* ~~commission~~ department of agriculture and land stewardship *that a horse or dog has been improperly drugged by a narcotic or other drug are prima facie evidence of the fact. The results of the tests shall be kept on file by the* ~~commission~~ department of agriculture and land stewardship *for at least one year following the tests.*

5. Every horse which suffers a breakdown on the racetrack, in training, or in competition, and is destroyed, and every other horse which expires while stabled on the racetrack under the jurisdiction of the commission, shall undergo a postmortem examination at a time and place acceptable to the ~~commission~~ state *veterinarian to determine the injury or sickness which resulted in euthanasia or natural death. The postmortem examination shall be conducted by a veterinarian employed by the owner or the owner's trainer in the presence of and in consultation with* ~~the commission~~ a department *veterinarian. Test samples shall be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the commission for testing for foreign substances and natural substances at abnormal levels. When practical, blood and urine test samples should be procured prior to euthanasia. The owner of the deceased horse is responsible for payment of any charges due the veterinarian employed to conduct the postmortem examination. The services of the* ~~commission~~ department *veterinarian and the laboratory testing of postmortem samples shall be made available by the* ~~commission~~ department of agriculture and land stewardship *without charge to the owner. A record of every postmortem shall be filed with the* ~~commission~~ state veterinarian *by the owner's veterinarian within seventy-two hours of the death and shall be submitted on a form supplied by the* ~~commission~~ state veterinarian. *Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupational license issued by the* ~~commission~~ state veterinarian.

7. Any horse which in the opinion of ~~the commission~~ a department *veterinarian has suffered a traumatic injury or disability such that a controlled program of phenylbutazone administration would not aid in restoring the racing soundness of the horse shall not be allowed to race while medicated with phenylbutazone or with phenylbutazone present in the horse's bodily systems.*

9. Before a horse is allowed to race using phenylbutazone, the veterinarian attending the horse shall certify to the ~~commission~~ department veterinarian *the course of treatment followed in administering the phenylbutazone.*

10. The ~~commission~~ department veterinarian *shall conduct random tests of bodily substances of horses entered to race each day of a race meeting to aid in the detection of any unlawful drugging. The tests shall be conducted both prior to and after a race. The* ~~commission~~ department veterinarian *shall also test any horse that breaks down during a race and shall perform an autopsy on any horse that is killed or subsequently destroyed as a result of accident during a race.*

Item veto; see message at end of the Act

*11. Veterinarians must submit daily to ~~the commission~~ a department veterinarian on a prescribed form a report of all medications and other substances which the veterinarian prescribed, administered, or dispensed for horses registered at a current race meeting. A log-book detailing other professional services performed while on the grounds of a racetrack shall be kept by veterinarians and shall be made immediately available to ~~the commission~~ a department veterinarian or the stewards upon request.**

**Sec. 31. Section 99D.25A, subsections 3 through 7, Code 1993, are amended to read as follows:*

3. If a horse is to race with phenylbutazone in its system, the trainer shall be responsible for marking the information on the entry blank for each race in which the horse shall use phenylbutazone. Changes made after the time of entry must be submitted on the prescribed form to ~~the commission~~ a department veterinarian no later than scratch time.

4. If a test detects concentrations of phenylbutazone in the system of a horse in excess of the level permitted in this section, the commission, upon receiving information from the department of agriculture and land stewardship, shall assess a civil penalty against the trainer of two hundred dollars for the first offense and five hundred dollars for a second offense. The penalty for a third or subsequent offense shall be in the discretion of the commission. A penalty assessed under this subsection shall not affect the placing of the horse in the race.

5. Lasix may be administered to certified bleeders. Upon request, any horse placed on the bleeder list shall, in its next race, be permitted the use of lasix. Once a horse has raced with lasix, it must continue to race with lasix in all subsequent races unless a request is made to discontinue the use. If the use of lasix is discontinued, the horse shall be prohibited from again racing with lasix unless it is later observed to be bleeding. Requests for the use of or discontinuance of lasix must be made to ~~the commission~~ a department veterinarian by the horse's trainer or assistant trainer on a form prescribed by the ~~commission~~ state veterinarian on or before the day of entry into the race for which the request is made.

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. After the lasix treatment, the ~~commission~~ department of agriculture and land stewardship, 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, upon receiving information from the department of agriculture and land stewardship, shall assess a civil penalty of one hundred dollars against the trainer.

*7. A horse entered to race with lasix must be treated at least four hours prior to post time. The lasix shall be administered intravenously by a veterinarian employed by the owner or trainer of the horse under the visual supervision of ~~the commission~~ a department veterinarian. The practicing veterinarian must deposit with ~~the commission~~ a department veterinarian at the detention barn an unopened supply of lasix and sterile hypodermic needles and syringes to be used for the administrations. Lasix shall only be administered in a dose level of two hundred fifty milligrams. ~~The commission~~ A department veterinarian shall extract a test sample of the horse's blood, urine, or saliva to determine whether the horse was improperly drugged both before the lasix was administered and after the race is run.**

**Sec. 32. Section 159.5, Code 1993, is amended by adding the following new subsection:*

NEW SUBSECTION. *16. Appoint a state veterinarian who shall be responsible for regulating areas relating to animal health as provided by the secretary.**

Sec. 33. Section 161A.6, unnumbered paragraph 5, Code 1993, is amended to read as follows:

The commissioners shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; ~~and shall provide for a biennial audit of the accounts of receipts and disbursements~~ and shall regularly report to the division a summary of financial information regarding moneys controlled by the commissioners, which are not audited by the state, according to rules adopted by the division.

*Item veto; see message at end of the Act

Sec. 34. Section 173.9, unnumbered paragraph 1, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

The board shall appoint a secretary who shall serve at the pleasure of the board. The secretary shall do all of the following:

Sec. 35. Section 206.5, subsection 3, Code 1993, is amended to read as follows:

3. a. ~~Commercial applicators~~ A commercial applicator shall choose between a one-year certification for which the applicator shall pay a thirty dollar fee or a three-year certification for which the applicator shall pay a seventy-five dollar fee. ~~Public applicators are exempt from the thirty and seventy-five dollar certification fees and instead are subject to~~ A public applicator shall choose between a one-year certification for which the applicator shall pay a ~~ten-dollar annual certification~~ ten dollar fee or a three-year certification for which the applicator shall pay a fifteen dollar fee ~~for a three-year certification~~. ~~The~~ A private applicator shall pay a fifteen dollar fee for a three-year certification.

b. To be initially certified as a commercial, public, or private applicator ~~shall be tested prior to initial certification~~, a person must complete an educational program which shall consist of an examination required to be passed by the person. ~~In addition, a~~ After initial certification the commercial, public, or private applicator ~~shall be reexamined every three years following initial certification before the applicator is eligible for a renewal of~~ must renew the certification by completing the educational program which shall consist of either an examination or continuing instructional courses. ~~However, a~~ The commercial, public, or private applicator must pass the examination each third year following initial certification or may elect to attend two hours of continuing instructional courses each year.

The department shall adopt rules providing for the program requirements which shall at least include the safe handling, application, and storage of pesticides, the correct calibration of equipment used for the application of pesticides, and the effects of pesticides upon the groundwater. The department shall adopt by rule criteria for allowing a person required to be certified to complete either a written or oral examination. The department shall administer the instructional courses, by either teaching the courses or selecting persons to teach the courses, according to criteria as provided by rules adopted by the department. The department shall, to the extent possible, select persons to teach the courses in each county. The department is not required to compensate persons selected to teach the courses. In selecting persons, the department shall rely upon organizations interested in the application of pesticides, including associations representing pesticide applicators and associations representing agricultural producers. The Iowa cooperative extension service in agriculture and home economics of Iowa state university of science and technology shall cooperate with the department in administering the instructional courses. The Iowa cooperative extension service may teach courses, train persons selected to teach courses, or distribute informational materials to persons teaching the courses.

c. A commercial, public, or private applicator ~~need~~ is not required to be certified to apply pesticides for a period of twenty-one days from the date of initial employment if the commercial, public, or private applicator is under the direct supervision of a certified applicator. For the purposes of this section, "under the direct supervision of" means that the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is physically present, by being in sight or hearing distance of the supervised person.

Sec. 36. Section 206.5, subsection 4, Code 1993, is amended to read as follows:

4. A commercial applicator who applies pesticides to agricultural land may, in lieu of the requirement of direct supervision, elect to be exempt from the certification requirements for a commercial applicator for a period of twenty-one days, if the applicator meets the requirements of a private applicator. ~~The test shall include, but is not limited to, the area of safe handling of agricultural chemicals and the effects of these chemicals on groundwater. The secretary shall also adopt, by rule, the criteria for the allowance of the selection of the written or oral examination by a person requiring certification.~~

Sec. 37. Section 206.8, subsection 3, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

3. This section shall not apply to either of the following:

a. A pesticide applicator who applies pesticides which are owned and furnished to the pesticide applicator by another person, if the pesticide applicator does not charge for the sale of the pesticides.

b. A federal, state, county, or municipal governmental entity which provides pesticides only for its own programs.

Sec. 38. Section 216B.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. The commission shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 39. Section 262.9, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. The board shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 40. Section 307.21, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. The administrator shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 41. Section 455A.8, subsection 2, Code 1993, is amended to read as follows:

2. Each voting member of the board shall serve three years, and shall be eligible for reappointment. However, the park ranger responsible for Brushy Creek shall be replaced by the ranger's successor, and the person representing the state advisory board for preserves shall serve at the pleasure of the board. The ~~members~~ department shall reimburse each member, other than the director or the director's designee and the park ranger, ~~are entitled to~~ for actual expenses incurred by the member in performance of the duties of the board. A majority of voting members constitutes a quorum, and the affirmative vote of a majority present is necessary for any action taken by the board, except that a lesser number may adjourn a meeting. A vacancy in the membership of the board does not impair the rights of a quorum to exercise all rights and perform all duties of the board. The board shall meet as required, but at least twice a year. The board shall meet upon call of the chairperson, or upon written request of three members of the board. Written notice of the time and place of the meeting shall be given to each member.

Sec. 42. NEW SECTION. 455A.8A BRUSHY CREEK AREA — TRAIL IMPROVEMENTS.

The department, in cooperation with the Brushy Creek recreation trails advisory board, shall provide for trail improvements in the recreation area and the state preserve adjoining the recreation area. The department shall establish and maintain a system of trails in the recreation area and the preserve. The trails shall be established or maintained to ensure the minimum possible disturbance to the natural terrain and the natural growth of vegetation, including but not limited to trees. The system of trails shall include equestrian and pedestrian trails.

The department in conjunction with the board shall provide for the location, type, and distance of trails, consistent with this section. The pedestrian trails shall be located in view of scenic attractions, including the lake and the valley. The trails shall be established and maintained in areas where hunting is permitted. The department and the board shall plan for the development of the lake shore.

The northern and southern part of the area shall be connected by trails. The northern part of the area shall include an equestrian campground which shall be maintained by the department. Trails shall exist on the eastern and western sides of the lake. An equestrian trail shall extend across the dam. There shall be established convenient road crossings. The southern part of the area shall include an area designed to securely confine horses. The southern part of the area shall also include pedestrian trails. The department shall post signs on the trails, the campground, and at the confinement area.

Sec. 43. Section 455A.19, subsection 1, paragraph a, Code 1993, is amended to read as follows:

a. Twenty-eight percent shall be allocated to the open spaces account. At least ten percent of the allocations to the account shall be made available to match private funds for open space projects on the cost-share basis of not less than twenty-five percent private funds pursuant to the rules adopted by the natural resources commission. Five percent of the funds allocated to the open spaces account shall be used to fund the protected waters program. This account shall be used by the department to implement the statewide open space acquisition, protection, and development programs.

PARAGRAPH DIVIDED. The department shall give priority to acquisition and control of open spaces of statewide significance. The department shall also use these funds for developments on state property. The total cost of an open spaces project funded under this paragraph "a" shall not exceed two million dollars unless a public hearing is held on the project in the area of the state affected by the project. However, on and after July 1, 1994, the following shall apply:

(1) If the total amount appropriated by the general assembly to the resources enhancement and protection fund, in any fiscal year as defined in section 8.36, is seven million dollars or more, not more than seventy-five percent of moneys in the open spaces account shall be allocated or obligated during that fiscal year to support a single project.

(2) If the total amount appropriated by the general assembly to the resources enhancement and protection fund, in any fiscal year as defined in section 8.36, is less than seven million dollars, not more than fifty percent of moneys in the open spaces account shall be allocated or obligated during that fiscal year to support a single project.

PARAGRAPH DIVIDED. Political subdivisions of the state shall be reimbursed for property tax dollars lost to open space acquisitions based on the reimbursement formula provided for in section 465A.4. There is appropriated from the open spaces account to the department the amount in that account, or so much thereof as is necessary, to carry out the open spaces program as specified in this paragraph "a". An appropriation made under this paragraph "a" shall continue in force for two fiscal years after the fiscal year in which the appropriation was made or until completion of the project. All unencumbered or unobligated funds remaining at the close of the fiscal year in which the project is completed or at the close of the final fiscal year, whichever date is earlier, shall revert to the open spaces account.

Sec. 44. NEW SECTION. 455B.104 PERMITS ISSUED BY THE DEPARTMENT — APPROVAL BY DEFAULT.

The department shall either approve or deny a permit to a person applying for a permit under this chapter, within six months from the date that the department receives a completed application for the permit. An application which is not approved or denied within the six-month period shall be approved by default. The department shall issue a permit to the applicant within ten days following the date of default approval. However, this section shall not apply to applications for permits which are issued under Division II, or Division IV, parts 2 through 7.

Sec. 45. Section 455B.310, subsection 2, paragraph b, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

b. In addition to the tonnage fee amounts imposed under this subsection, the tonnage fee shall be increased by seventy-five cents per ton of solid waste. The moneys collected under this paragraph are appropriated and shall be used as provided in section 455E.11, subsection 2, paragraph "a", subparagraph (11A).

Sec. 46. Section 455E.11, subsection 2, paragraph a, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (11A) Each additional seventy-five cents per ton per year received from the additional tonnage fee imposed pursuant to section 455B.310, subsection 2, paragraph "b", shall be allocated for the following purposes:

(a) Ten cents per ton per year is appropriated to the department of natural resources to establish a program to provide competitive grants to regional coordinating councils for projects in regional economic development centers related to a by-products and waste exchange system. Grantees under this program shall coordinate activities with other available state or multistate waste exchanges, including but not limited to the by-products and waste search service at the university of northern Iowa. The department shall consult with the department of economic development and the waste reduction center at the university of northern Iowa in establishing criteria for and the awarding of grants under this program. The department of natural resources shall expend not more than thirty thousand dollars of the moneys appropriated under this subparagraph subdivision 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 to be applicants for competitive grants.

(b) Fifteen cents per ton per year is appropriated to the department of natural resources to establish three permanent household hazardous waste collection sites so that both urban and rural population are served and so that collection services are available to the public on a regular basis. An additional five cents per ton per year is appropriated to the department to be used for the payment of transportation costs related to household hazardous waste collection programs.

(c) Twelve and one-half cents per ton per year is appropriated to the department of natural resources to provide additional toxic cleanup days. Departmental rules adopted for implementation of toxic cleanup days shall provide sufficient flexibility to respond to the household hazardous material collection needs of both small and large communities.

(d) 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.

(e) Five cents per ton per year is appropriated to the university of northern Iowa to develop and maintain the Iowa waste reduction center for the safe and economic management of solid waste and hazardous substances established at the university of northern Iowa.

(f) Eight cents per ton per year is appropriated to the department of natural resources for the provision of assistance to public and private entities in developing and implementing waste reduction and minimization programs for Iowa industries.

(g) The remaining moneys are appropriated to the department of natural resources to be used in accordance with subparagraph (8), subparagraph subdivision (b), subparagraph subdivision subparts (ii) through (iv).

**Sec. 47.* NEW SECTION. *461A.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, 1993, 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, 1993, 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. 48. Section 904.312, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall, whenever technically feasible, purchase and use degradable loose foam packing material manufactured from grain starches or other renewable resources, unless the cost of the packing material is more than ten percent greater than the cost of packing material made from nonrenewable resources. For the purposes of this subsection, "packing material" means material, other than an exterior packing shell, that is used to stabilize, protect, cushion, or brace the contents of a package.

Sec. 49. EFFECTIVE DATE. Section 4 of this Act, being deemed of immediate importance takes effect upon enactment.

Sec. 50. EFFECTIVE DATE. Sections 13 and 25 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 51. EFFECTIVE DATE. Sections 23, 41, and 42 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 20, 1993, except the items which I hereby disapprove and which are designated as Section 4, subsection 2 in its entirety; Section 22 in its entirety; Sections 27, 28, 29, 30, 31, and 32 in their entirety; Section 47 in its entirety; and Section 49 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*

*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit House File 623, an Act relating to appropriations and revenue involving agriculture and natural resources, making related statutory changes, and providing effective dates.

House File 623 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 4, subsection 2, Sections 27 through 32, and Section 49, in their entirety. These provisions would transfer the responsibilities for drug testing and occupational licensing at the dog and horse tracks from the Iowa Racing and Gaming Commission to the Department of Agriculture and Land Stewardship. All other regulatory authority over the tracks would remain with the Racing and Gaming Commission. Above all, Iowans must feel secure that all forms of gambling conducted in the state are adequately regulated and controlled to discourage criminal activity and to protect the public. Fragmenting the responsibilities would impair the state's ability to strictly enforce the regulations at the tracks. To insure that the public is protected and the highest level of integrity maintained, the Commission should retain its present regulatory authority.

I am unable to approve the item designated as Section 22, in its entirety. This provision relates to reductions in full time equivalent positions in the Department of Natural Resources. Decisions concerning personnel in the department are the prerogative of the executive branch. The director must have the flexibility to adjust personnel in response to needs within the department.

I am unable to approve the item designated as Section 47, in its entirety. This provision would require the Department of Natural Resources to request a general fund appropriation to pay property taxes on land acquired by the department after July 1, 1993. This would be in addition to existing provisions for payment of taxes under REAP and the Wildlife Habitat stamp programs. Much of the land acquired by the department is purchased with funds from these programs, therefore property taxes are already being paid on the land.

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 623 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 177

COMPENSATION FOR PUBLIC EMPLOYEES

S.F. 422

AN ACT relating to the compensation and benefits for public officials and employees and making appropriations.

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

Section 1. STATE COURTS — JUSTICES, JUDGES, AND MAGISTRATES. For the fiscal year beginning July 1, 1993, and ending June 30, 1994, the justices and judges of the judicial department shall receive a cash payment of $650 which shall not be added to the base salary. Magistrates shall receive a cash payment of $325 for the same fiscal year which shall not be added to the base salary. The cash payments are to be paid in equal biweekly installments and shall take effect with the pay period beginning June 18, 1993.

Sec. 2. SALARY RATE LIMITS. Justices, judges, and magistrates of the judicial department receiving cash payments pursuant to section 1 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 3. JUDICIAL RETIREMENT FUND — APPROPRIATION. There is appropriated to the judicial retirement fund provided for in section 602.9104 for the fiscal year beginning July 1, 1993, and ending June 30, 1994, from funds appropriated to the salary adjustment fund in section 9 of this Act, a sum equal to one percent of the base salaries of all justices, judges, and magistrates of the judicial department.

Sec. 4. ELECTIVE EXECUTIVE OFFICIALS.

1. The annual salary rates specified in this section are effective for the pay period beginning December 30, 1994, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section pursuant to any Act of the general assembly or if the appropriation is not sufficient, from the salary adjustment fund.

2. The following annual salary rates shall be paid to the person holding the position indicated:

a. OFFICE OF THE GOVERNOR

(1) Salary for governor:

..... $ 79,800

(2) Salary for lieutenant governor:

..... $ 62,400

b. DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Salary for the secretary of agriculture:

..... $ 62,400

c. DEPARTMENT OF JUSTICE

Salary for the attorney general:

..... $ 76,500

d. OFFICE OF THE AUDITOR OF STATE

Salary for the auditor of state:

..... $ 62,400

e. OFFICE OF THE SECRETARY OF STATE

Salary for the secretary of state:

..... $ 62,400

f. OFFICE OF THE TREASURER OF STATE

Salary for the treasurer of state:

..... $ 62,400

Sec. 5. APPOINTED STATE OFFICERS. The governor shall establish a salary for appointed nonelected persons in the executive branch of state government holding a position

enumerated in section 6 of this Act within the range provided by considering, among other items, the experience of the individual in the position, changes in the duties of the position, the incumbent's performance of assigned duties, and subordinates' salaries. However, the attorney general shall establish the salary for the consumer advocate, the chief justice of the state supreme court shall establish the salary for the state court administrator, and the state fair board shall establish the salary of the secretary of the state fair board each within the salary range provided in section 6 of this Act.

The governor, in establishing salaries as provided in section 6 of this Act, shall take into consideration other employee benefits which may be provided for an individual including, but not limited to, housing.

A person whose salary is established pursuant to section 6 of this Act and who is a full-time permanent employee of the state shall not receive any other remuneration from the state or from any other source for the performance of that person's duties unless the additional remuneration is first approved by the governor or authorized by law. However, this provision does not exclude the reimbursement for necessary travel and expenses incurred in the performance of duties or fringe benefits normally provided to employees of the state.

Sec. 6. STATE OFFICERS — SALARY RATES AND RANGES. The following annual salary ranges are effective for the positions specified in this section for the fiscal year beginning July 1, 1993, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 5 of this Act shall determine the salary to be paid to the person indicated at a rate within the salary ranges indicated from funds appropriated by the general assembly for that purpose.

1. The following salary ranges are effective beginning with the fiscal year beginning July 1, 1993, and as otherwise provided in this section:

SALARY RANGES	Minimum	Maximum
a. Range 1	$ 7,900	$23,800
b. Range 2	$28,700	$47,700
c. Range 3	$39,400	$55,700
d. Range 4	$47,400	$63,700
e. Range 5	$55,700	$71,700

2. The following are range 1 positions: There are no range 1 positions as of the fiscal year beginning July 1, 1993.

3. The following are range 2 positions: administrator of criminal and juvenile justice planning of the department of human rights, administrator of the arts division of the department of cultural affairs, administrators of the division of persons with disabilities, the division on the status of women, the division on the status of African-Americans, the division for deaf services, and the division of Latino affairs of the department of human rights, administrator of the division of professional licensing and regulation of the department of commerce, executive director of the commission of veterans affairs, and administrator of the division of emergency management of the department of public defense.

4. The following are range 3 positions: administrator of the division of community action agencies of the department of human rights, and chairperson and members of the employment appeal board of the department of inspections and appeals.

5. The following are range 4 positions: superintendent of banking, superintendent of credit unions, drug abuse prevention coordinator, administrator of the alcoholic beverages division of the department of commerce, state public defender, and chairperson and members of the board of parole.

6. The following are range 5 positions: chairperson and members of the utilities board, consumer advocate, job service commissioner, labor commissioner, industrial commissioner, commissioner of insurance, administrator of the historical division of the department of cultural affairs, administrator of the public broadcasting division of the department of education, the administrator of the state racing and gaming commission of the department of inspections and appeals, commandant of the veterans home, and secretary of the state fair board.

7. The following salary ranges are effective beginning with the fiscal year beginning July 1, 1993, and as otherwise provided in this section:

SALARY RANGES	Minimum	Maximum
a. Range 6	$43,100	$57,800
b. Range 7	$58,900	$72,300
c. Range 8	$63,100	$84,000
d. Range 9	$70,500	$99,900

8. The following are range 6 positions: director of the department of human rights, director of the Iowa state civil rights commission, executive director of the college student aid commission, director of the department for the blind, and executive secretary of the campaign finance disclosure commission.

9. The following are range 7 positions: director of the department of cultural affairs, director of the department of personnel, director of public health, executive director of the department of elder affairs, commissioner of public safety, director of the department of general services, director of the department of commerce, director of law enforcement academy, and director of the department of inspections and appeals.

10. The following are range 8 positions: executive director of the Iowa finance authority, director of revenue and finance, director of the department of natural resources, director of the department of corrections, and director of the department of employment services.

11. The following are range 9 positions: director of the department of education, director of human services, director of the department of economic development, executive director of the state board of regents, director of the state department of transportation, lottery commissioner, the state court administrator, and the director of the department of management.

Sec. 7. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. The salary rates specified in this section are effective for the fiscal year beginning July 1, 1993, and for subsequent fiscal years until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the department or agency specified in this section.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

a. Chairperson of the public employment relations board:
..... $ 55,700

b. Two members of the public employment relations board:
..... $ 51,700

Sec. 8. PAY RATES AND RANGES — EFFECTIVE DATES. The annual salary rates or ranges provided in sections 6 and 7 of this Act become effective for the fiscal year beginning July 1, 1993, with the pay period beginning June 18, 1993. In addition to the salaries as fixed by the appropriate appointing authority, state officers covered in sections 6 and 7 may receive a cash payment, if authorized by the appropriate appointing authority, of $650 which shall not be added to the base salary, paid in 26 equal installments during the fiscal year beginning July 1, 1993. Cash payments, if authorized, shall take effect with the pay period beginning June 18, 1993.

Sec. 9. COLLECTIVE BARGAINING AGREEMENTS FUNDED — NONCONTRACT EMPLOYEES — GENERAL FUND. 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, 1993, and ending June 30, 1994, the following amount, $24,500,000, 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.

9. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the community-based corrections bargaining unit.

10. The collective bargaining agreements negotiated pursuant to chapter 20 for employees in the judicial branch of government bargaining unit.

11. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the patient care bargaining unit.

12. The annual pay adjustments, expense reimbursements, and related benefits referred to in sections 10 and 11 of this Act for employees not covered by a collective bargaining agreement.

13. The state contribution to the judicial retirement fund as provided in section 3.

Sec. 10. NONCONTRACT STATE EMPLOYEES — GENERAL.

1. a. For the fiscal year beginning July 1, 1993, the maximum salary levels of all pay plans provided for in section 19A.9, subsection 2, shall remain as they existed on June 30, 1993. Employees who are not included in a collective bargaining agreement pursuant to chapter 20, are not otherwise specified in this Act, and are regularly scheduled for 32 hours or more per week shall receive a cash payment of $650 which shall not be added to the base salary. Employees who are regularly scheduled for less than 32 hours per week shall receive a cash payment of $325 which shall not be added to the base salary. The cash payments are to be paid in equal biweekly installments throughout the fiscal year. Employees must be on the state payroll as of July 1, 1993, to be eligible for the cash payments. Employees who terminate their employment with the state on or before June 30, 1994, shall forfeit any portion of the cash payment which has not been accrued at the time of termination. Cash payments shall take effect with the pay period beginning June 18, 1993.

b. In addition to the cash payments specified in this subsection, for the fiscal year beginning July 1, 1993, employees may receive a merit increase or the equivalent of a merit increase.

2. The state employees who are exempt from chapter 19A and who are included in the department of revenue and finance's centralized payroll system shall receive the same cash payments and merit increases as provided in subsection 1.

3. This section does not apply to members of the general assembly, board members, commission members, appointed nonelected persons in the executive branch of state government whose salaries are set by the general assembly, or set by the governor, employees designated under section 19A.3, subsection 5, and employees under the jurisdiction of the state board of regents.

4. The bargaining eligible employees of the state shall receive the same cash payments and merit increases as provided in subsection 1. 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. 11. NONCONTRACT STATE EMPLOYEES – STATE BOARD OF REGENTS. Funds shall be allocated to the state board of regents for the purposes of providing cash payments and percentage increases for employees not covered by a collective bargaining agreement as follows:

1. For regents merit system employees to fund cash payments and step increases comparable to those provided for similar contract-covered employees in this Act.

2. For faculty members and professional and scientific employees to fund cash payments and percentage increases comparable to those provided for contract-covered employees in section 9, subsection 6, of this Act.

Sec. 12. 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, 1993, and ending June 30, 1994, 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:

..... $ 919,318

2. There is appropriated from the primary road fund to the salary adjustment fund, 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:

To supplement other funds appropriated by the general assembly:

..... $ 2,643,974

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 this Act.

Sec. 13. 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. 14. 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 except for employees of the state board of regents.

Sec. 15. 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. 16. Section 2.10, subsections 1, 3, 6, and 7, Code 1993, are amended to read as follows:

1. Every member of the general assembly except the presiding officer of the senate, the speaker of the house, the majority and minority floor leader of each house, and the president pro tempore of the senate and speaker pro tempore of the house, shall receive an annual salary of eighteen thousand ~~one~~ eight hundred dollars for the year ~~1991~~ 1995 and subsequent years while serving as a member of the general assembly. In addition, each such member shall receive the sum of ~~fifty~~ sixty dollars per day for expenses of office, except travel, for each day the general assembly is in session commencing with the first day of a legislative session and ending with the day of final adjournment of each legislative session as indicated by the journals of the house and senate, except that if the length of the first regular session of the general assembly exceeds one hundred ten calendar days and the second regular session exceeds one hundred calendar days, the payments shall be made only for one hundred ten calendar days for the first session and one hundred calendar days for the second session. However, members from Polk county shall receive ~~thirty-five~~ forty-five dollars per day. Each member shall receive a ~~seventy-five~~ one hundred twenty-five dollar per month allowance for legislative district constituency postage, travel, telephone costs, and other

expenses. Travel expenses shall be paid at the rate established by section 18.117 for actual travel in going to and returning from the seat of government by the nearest traveled route for not more than one time per week during a legislative session. However, any increase from time to time in the mileage rate established by section 18.117 shall not become effective for members of the general assembly until the convening of the next general assembly following the session in which the increase is adopted; and this provision shall prevail over any inconsistent provision of any present or future statute.

3. The speaker of the house, presiding officer of the senate, and the majority and minority floor leader of each house shall each receive an annual salary of ~~twenty-seven~~ twenty-nine thousand ~~nine hundred~~ dollars for the year ~~1991~~ 1995 and subsequent years while serving in that capacity. The president pro tempore of the senate and the speaker pro tempore of the house shall receive an annual salary of nineteen thousand ~~one~~ nine hundred dollars for the year ~~1991~~ 1995 and subsequent years while serving in that capacity. Expense and travel allowances shall be the same for the speaker of the house and the presiding officer of the senate, the president pro tempore of the senate and the speaker pro tempore of the house, and the majority and minority leader of each house as provided for other members of the general assembly.

6. In addition to the salaries and expenses authorized by this section, members of the general assembly shall be paid ~~fifty~~ sixty dollars per day, and necessary travel and actual expenses incurred in attending meetings for which per diem or expenses are authorized by law for members of the general assembly who serve on statutory boards, commissions, or councils, and for standing or interim committee or subcommittee meetings subject to the provisions of section 2.14, or when on authorized legislative business when the general assembly is not in session. However, if a member of the general assembly is engaged in authorized legislative business at a location other than at the seat of government during the time the general assembly is in session, payment may be made for the actual transportation and lodging costs incurred because of the business. Such per diem or expenses shall be paid promptly from funds appropriated pursuant to section 2.12.

7. If a special session of the general assembly is convened, members of the general assembly shall receive, in addition to their annual salaries, the sum of ~~fifty~~ sixty dollars per day for each day the general assembly is actually in special session, and the same travel allowances and expenses as authorized by this section. A member of the general assembly shall receive the additional per diem, travel allowances and expenses only for the days of attendance during a special session.

Sec. 17. Section 2.10, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A member of the general assembly may return to the state treasury all or a part of the salary, per diem, or expenses paid to the member pursuant to this section. The member may specify the public use for the returned money. A member has no income tax liability for that portion of the member's salary or per diem which is returned to the state treasury pursuant to this subsection. The administrative officer of each house shall provide a form at the convening of each legislative session to allow legislators to return any portion of their salaries or expenses according to this section.

Sec. 18. Section 16 of this Act takes effect January 1, 1995.

Approved May 21, 1993

CHAPTER 178

APPROPRIATIONS — STATE DEPARTMENTS AND AGENCIES
H.F. 430

AN ACT relating to and making appropriations to state departments, agencies, funds, and certain other entities, providing for the payment of abandoned property, and providing for other properly related matters.

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, 1993, and ending June 30, 1994, 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:

..... $ 18,316

2. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment for the Senate:

..... $ 82,594

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. There is appropriated from the general fund of the state to the department of general services 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. ADMINISTRATION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 462,386
..... FTEs 10.35

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 164,942
..... FTEs 13.00

3. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,343,907
..... FTEs 132.50

4. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,528,274
..... FTEs 115.00

5. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 820,381
..... FTEs 28.25

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.

The department of general services shall report quarterly regarding the construction and financial status of the Iowa communications network project to the chairpersons and ranking members of the joint appropriations subcommittee on administration and to the legislative fiscal bureau. The report shall also include any changes from the scheduled progress or expenditures.

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 appropriations subcommittee on administration 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. 4. There is appropriated from the general fund of the state to the department of general services 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. CAPITOL PLANNING COMMISSION

For expenses of the members in carrying out their duties under chapter 18A:

..... $ 1,256

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:

..... $ 522,034

3. UTILITY COSTS

For payment of utility costs:

..... $ 1,900,000

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. In addition, notwithstanding sections 8.33 and 18.12, subsection 11, any excess funds appropriated for utility costs in this subsection shall not revert to the general fund of the state on June 30, 1994, 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 on the projects having 100 percent payback within a six-year period to the chairpersons and ranking members of the joint appropriations subcommittee on administration 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. 5. There is appropriated from the designated revolving funds to the department of general services 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. 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:

..... $ 870,062

..... FTEs 25.00

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, 1993, and ending June 30, 1994, 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:

..... $ 609,430
..... FTEs 15.00

4. The remainder of the centralized purchasing permanent revolving fund is appropriated for the payment of expenses incurred through purchases by various state departments and for contingencies arising during the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 598,696
..... FTEs 15.00

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, 1993, and ending June 30, 1994, which are legally payable from this fund.

The vehicle dispatcher shall report, not later than February 15, 1994, to the chairpersons and the ranking members of the joint appropriations subcommittee on administration 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 to the chairpersons and ranking members of the joint appropriations subcommittee on administration and the legislative fiscal bureau 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. 6. GOVERNOR. 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, 1993, and ending June 30, 1994, 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:

..... $ 1,009,477
..... FTEs 17.25

2. For the governor's expenses and the lieutenant governor's expenses connected with office:

..... $ 2,416

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:

..... $ 46,206
..... FTEs 2.50

4. For salaries, support, maintenance, miscellaneous purposes, for the operation of Terrace Hill, and for not more than the following full-time equivalent positions:

..... $ 161,258
..... FTEs 4.25

5. 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:

..... $ 1,610

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 informed of these requirements. 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.

6. 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:

..... $ 89,598

..... FTEs 2.00

7. For payment of Iowa's membership in the national governors' conference:

..... $ 74,435

Sec. 7. DRUG ENFORCEMENT AND ABUSE COORDINATOR. 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, 1993, and ending June 30, 1994, 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:

..... $ 214,427

..... FTEs 10.00

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:

..... $ 32,894

Sec. 8. DEPARTMENT OF MANAGEMENT. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 1,636,029

..... FTEs 27.00

Sec. 9. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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 appropriations subcommittee on administration, 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 1992-1993 on or before September 1, 1993. The department shall continue this reporting for fiscal year 1993-1994. A report on the first five months of the fiscal year is due by January 2, 1994, and a year-end report is due by September 1, 1994.

When addressing staffing targets for state agencies, the department of management shall state the number of staff authorized for a state agency in terms of full-time equivalent positions.

Sec. 10. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

COUNCIL OF STATE GOVERNMENTS

For support of the membership assessment:

..... $ 63,971

Sec. 11. There is appropriated from the general fund of the state to the department of personnel 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 including the filing of quarterly reports as required in this 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:

..... $ 1,297,439
..... FTEs 23.00

2. FIELD SERVICES

For salaries for the personnel services and for not more than the following full-time equivalent positions:

..... $ 667,516
..... FTEs 23.00

3. PROGRAM MANAGEMENT

a. For salaries for employment and training, and for not more than the following full-time equivalent positions:

..... $ 653,031
..... FTEs 18.00

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:

..... $ 811,188
..... FTEs 22.00

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 services 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 appropriations subcommittee on administration 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. 12. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel 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. For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... $ 3,447,852

*Item veto; see message at end of the Act

2. 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.

3. The department of personnel shall report on or before January 1, 1994, and each six months thereafter until the data information system is fully implemented to the chairpersons and ranking members of the joint appropriations subcommittee on administration 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.

4. The department of personnel shall submit, annually, a report to the chairpersons and ranking members of the joint appropriations subcommittee on administration 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. 13. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 303,953

Sec. 14. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 49,481

Sec. 15. There is appropriated from the general fund of the state to the department of revenue and finance 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, and for not more than the following full-time equivalent positions used for the purposes designated in subsections 1 through 6:

..... FTEs 587.43

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,095,810

2. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,001,507

3. FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 7,053,882

4. INFORMATION AND MANAGEMENT SYSTEMS

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 2,349,305

5. LOCAL GOVERNMENT SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,287,758

6. TECHNICAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 2,581,000

7. RECORDING FEES

For payment of recording fees pursuant to section 422.26:

..... $ 45,008

8. a. The department of revenue and finance shall not change the appropriations for the purposes designated in subsections 1 through 6 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 appropriations subcommittee on administration 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. 16. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 7,264,362
..... FTEs 120.00

Sec. 17. There is appropriated from the motor vehicle fuel tax fund created by section 452A.77 to the department of revenue and finance for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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 452A and the motor vehicle use tax program:

..... $ 918,727

Sec. 18. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, for the following purpose:

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:

..... $ 331,269

Sec. 19. 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, 1993, and ending June 30, 1994, 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:

..... $ 455,840
..... FTEs 10.00

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,502,904
..... FTEs 40.00

Sec. 20. STATE-FEDERAL RELATIONS. There is appropriated from the general fund of the state to the office of state-federal relations for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 204,524
..... FTEs 3.00

Sec. 21. TREASURER. There is appropriated from the general fund of the state to the office of treasurer of state for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 787,576
..... FTEs 28.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Sec. 22. SECOND INJURY FUND. The administrative costs and expenses incurred by the treasurer of state, the attorney general, the second injury fund, or the department of revenue and finance, in connection with the second injury fund, may be paid from the second injury fund. However, the payment of administrative costs and expenses incurred by the treasurer of state, the attorney general, the second injury fund, and the department of revenue and finance, as authorized in this section, shall only be permitted for administrative costs and expenses incurred in the fiscal year commencing July 1, 1993, shall not exceed $170,000, and shall be contingent upon the treasurer of state assessing the surcharge authorized in 1992 Iowa Acts, chapter 1056, section 2, on or before June 30, 1993.

Sec. 23. ELIMINATION OF VACANT UNFUNDED JOBS. The state departments, agencies, or offices receiving appropriations under this Act shall eliminate, within thirty days after the beginning of a fiscal year, all vacant unfunded positions on the table of organization of the state department, agency, or office.

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, 1993, and ending June 30, 1994, 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:

..... $ 4,832

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. 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, 1993, and ending June 30, 1994, 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:

..... $ 5,884,740

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 at the end of the fiscal year shall not revert but shall be available for expenditure for purposes of the fund for subsequent fiscal years.

Sec. 26. 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.

In addition, state departments, agencies, and offices receiving appropriations under this Act shall reduce expenditures for dues for organizational memberships and travel costs associated with the organizational memberships which are payable from the operations budget of the state department, agency, or office by a total of 10 percent during the fiscal year beginning July 1, 1993. The state departments, agencies, and offices shall report to the chairpersons, vice-chairpersons, and ranking members of the joint appropriations subcommittee on administration and the legislative fiscal bureau regarding the reductions by January 1, 1994, and shall submit a final report by June 30, 1994.

Sec. 27. NEW SECTION. 2.39 REPORTS TO THE GENERAL ASSEMBLY.

All reports required to be filed with the general assembly by a state department or agency shall be filed by delivering one printed copy and one copy in electronic format as prescribed by the secretary of the senate and the chief clerk of the house.

**Sec. 28. Section 8.6, Code 1993, is amended by adding the following new subsections:*

NEW SUBSECTION. *16. WORKFLOW PROCESS REVIEW. To review the workflow processes of all departments for the following purposes:*

a. To determine where information technology may be used to improve the efficiency of a department and how such technology may be used to the fullest extent possible for the maximum benefit.

b. To discourage the duplication of information collection efforts and encourage information sharing among departments.

c. To discourage manual duplication of certain acts including the rekeying of documents which may be otherwise transferred or delivered in a usable electronic format.

NEW SUBSECTION. *17. STATE AGENCY REPORTS. To develop a process for the inventory, production review, and process analysis of state agency reports including all of the following duties:*

a. Directing each state agency to develop a list of reports published or made available by the agency and to provide the list to the department. The list provided shall indicate which reports are specifically required by state or federal law to be published or provided. Notwithstanding any provision requiring a report to be provided in writing, the department shall require that all reports required by state law be provided in electronic format as determined by the department, unless the state agency is granted a waiver by the department to publish or provide the report in writing. The department shall develop a process for the granting of such waivers.

b. Making a request to all state agencies to identify reports which can be provided to the federal government in an electronic format in lieu of printed copies. The department shall direct all state agencies required by federal law to make a report to the federal government to make a request to the receiving agency to permit the report to be provided in electronic format.

*Item veto; see message at end of the Act

c. Developing data standards for reports to be provided in electronic format. Such standards shall be adopted by rule pursuant to chapter 17A after the department has consulted with affected local, state, and federal officials.

d. Developing procedures for state agencies regarding public access to public documents and public information.

*e. Developing a process for the identification of documents to be provided electronically.**

**Sec. 29.* NEW SECTION. *8.60 INFORMATION TECHNOLOGY ACQUISITION FUND ESTABLISHED.*

1. There is created in the office of the treasurer of state a technology acquisition fund which is under the control of the department of management. Moneys deposited in the fund are not subject to reversion pursuant to section 8.33.

2. In addition to funds appropriated to the technology acquisition fund in subsection 1, fifty percent of the savings identified as a result of a reduction in publication and dissemination expenses which are realized as a result of section 8.6, subsection 17, shall be deposited in the information technology acquisition fund. The remaining fifty percent of such savings shall be deposited in the cash reserve fund established in section 8.56. However, any savings realized from the reduction in publication and dissemination expenses which have been funded from the road use tax fund or the primary road fund shall be credited to a separate account of the information technology acquisition fund and shall be used exclusively for road use tax fund purposes. The department of management shall adopt rules pursuant to chapter 17A establishing a procedure for identifying funds which are subject to this subsection.

3. The department shall adopt rules pursuant to chapter 17A establishing standards which shall govern the use of moneys in the fund. The standards shall recognize the benefits which can be realized through interagency collaboration and cooperation in the use of such moneys. The standards shall also provide that priority of the use of the moneys in the fund shall be related to the highest demonstrated or reasonably projected savings to be realized.

4. For purposes of the subsection:

a. "Information technology" includes, but is not limited to, all forms of hardware or software used for collecting, processing, transmitting, or storing data or information, other forms of data, or information manipulation.

*b. "Procurement" includes purchase, lease-purchase, lease, or other forms of financing deemed by the department to be appropriate.**

**Sec. 30.* NEW SECTION. *18.12A INFORMATION TECHNOLOGY PURCHASES.*

*The department is authorized, subject to the approval of the department of management, to make expenditures for the purchase of information technology. The department shall use moneys deposited in the technology acquisition fund created in section 8.60 for the purchase of such technology. The department may also use funds as otherwise identified and authorized to be used for such acquisitions.**

**Sec. 31.* *Section 261.38, subsection 5, Code 1993, is amended to read as follows:*

5. The treasurer of state shall invest any funds, including those in the loan reserve account, and the interest income earned shall be credited back to the loan reserve account. The treasurer may invest up to forty percent of the funds in the loan reserve account in tax-exempt investments issued by an agency of the state of Iowa. If any of the tax-exempt investments are for purposes of financing the construction or improvement of state facilities, the executive council, established under chapter 19, shall review and approve the proposed construction or improvement prior to the investment of loan reserve account funds in the tax-exempt investments.*

Sec. 32. NEW SECTION. 303.95 ELECTRONIC ACCESS TO DOCUMENTS.

The state library shall work to develop a system of electronic access to documents maintained by the state library with a goal of providing electronic access to all such documents. The access shall be provided initially through the use of compact disc technology. This section shall

*Item veto; see message at end of the Act

not prohibit the state librarian from considering other forms of electronic access if the use of such other access is shown to exceed the benefits of, and is more cost-effective than, the use of compact disc technology.

Sec. 33. Section 556.5, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

1. Except as provided in subsections 2 and 5, stock or other intangible ownership interest in a business association, the existence of which is evidenced by records available to the association, is presumed abandoned and, with respect to the interest, the association is the holder, if a dividend, distribution, or other sum payable as a result of the interest has remained unclaimed by the owner for ~~seven~~ three years and the owner within ~~seven~~ three years has not:

Sec. 34. Section 556.5, subsections 2, 3, and 5, Code 1993, are amended to read as follows:

2. At the expiration of a ~~seven-year~~ three-year period following the failure of the owner to claim a dividend, distribution, or other sum payable to the owner as a result of the interest, the interest is not presumed abandoned unless there have been at least seven dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If ~~seven~~ three dividends, distributions, or other sums are paid during the ~~seven-year~~ three-year period, the period leading to a presumption of abandonment commences on the date payment of the first unclaimed dividend, distribution, or other sum became due and payable. If ~~seven~~ three dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been ~~seven~~ three dividends, distributions, or other sums that have not been claimed by the owner.

3. The running of the ~~seven-year~~ three-year period of abandonment ceases immediately upon the occurrence of a communication referred to in subsection 1. If any future dividend, distribution, or other sum payable to the owner as a result of the interest is subsequently not claimed by the owner, a new period of abandonment commences and relates back to the time a subsequent dividend, distribution, or other sum became due and payable.

5. This section does not apply to any stock or other intangible ownership of interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless the records available to the treasurer of state show, with respect to any intangible ownership interest not enrolled in the reinvestment plan, that the owner has not within ~~seven~~ three years communicated in any manner described in subsection 1.

Sec. 35. Section 556.25, subsection 1, Code 1993, is amended to read as follows:

1. A person who fails to pay or deliver property within the time prescribed by this chapter shall pay the treasurer of state interest at the annual rate of ~~eighteen~~ ten percent on the property or value of the property from the date the property should have been paid or delivered but in no event prior to July 1, 1984.

Sec. 36. Section 556.25, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The interest or penalty or any part of the interest or penalty as imposed in subsections 1 or 2, may be waived or remitted by the treasurer of state if the person's failure to pay abandoned funds or deliver property is satisfactorily explained to the treasurer of state and if the failure has resulted from a mistake by the person in understanding or applying the law or the facts which require that person to pay abandoned funds or deliver property as provided in this chapter.

Approved May 25, 1993, except the items which I hereby disapprove and which are designated as Section 9, unnumbered and unlettered paragraph 4 in its entirety; Section 26, unnumbered and unlettered paragraph 2 in its entirety; and Sections 28, 29, 30, and 31 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 430, an Act relating to and making appropriations to state departments, agencies, funds, and certain other entities, providing for the payment of abandoned property, and providing for other properly related matters.

House File 430 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 9, unnumbered and unlettered paragraph 4, in its entirety. This provision would require the Department of Management to state staffing targets in terms of full-time equivalent positions. The executive branch must maintain flexibility to utilize reporting formats that meet its management goals.

I am unable to approve the item designated as Section 26, unnumbered and unlettered paragraph 2, in its entirety. This language relates to organizational membership dues and travel costs of state agencies. This language is duplicative of Section 2 in the bill requiring the Executive Council to review all dues paid by state agencies.

I am unable to approve the items designated as Sections 28, 29, and 30, in their entirety. These provisions would establish a new process to review all agency publications to determine whether they could better be provided in electronic format and would establish a technology acquisition fund. I strongly support the concept of paperwork reduction within the executive branch of government, however, the proposal in the bill needs refinement to become workable. The Department of Management will begin the process of reducing paperwork in government by looking first to the elimination of unnecessary reporting requirements. I would urge the legislature to reconsider the recommendations I made relating to paperwork reduction in my government streamlining bill.

I am unable to approve the item designated as Section 31, in its entirety. This section would allow the State Treasurer to invest up to forty percent of the funds in the Loan Reserve Fund of the Iowa College Student Aid Commission in tax-exempt investments issued by state agencies. The State Treasurer already has full authority to make prudent investments of the Loan Reserve Funds.

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 430 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 179

APPROPRIATIONS — EDUCATION

S.F. 233

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 an effective date.

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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as may be necessary, to be used for the development and implementation of a performance accreditation system and to develop appropriate student assessment strategies in cooperation with nationally recognized testing organizations located in Iowa and other states; for support for the department of education technology commission and the implementation of two multimedia education technology demonstration grants in public schools which are connected to Part II of the Iowa communications network backbone system; and for the purposes designated:

1. GENERAL ADMINISTRATION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 4,729,911
..... FTEs 91.95

The department of education shall work collaboratively with the college of education at the university of northern Iowa in developing activities in order to support the STAR schools program and the work of the college of education relating to the preparation of teachers to effectively use technology in education.

It is the intent of the general assembly that school reform be planned, developed, and implemented through cooperative efforts of educators and parents at the local level. It is further the intent of the general assembly that the department of education provide support, resources, and organizational assistance to enable local districts and area education agencies to design and implement locally-based, unique plans for educational excellence that meet unique local needs as well as contribute to the state of Iowa's policy of being "First In the Nation in Education" through locally-controlled innovation.

b. For the purposes of preparing and making available to schools and the public suggestions for parental involvement activities:

..... $ 5,000

The activities developed by the department of education under this lettered paragraph shall include, but are not limited to, the following:

(1) Social involvement for parents and families.
(2) Two-way communication between home and school.
(3) Volunteer opportunities in the schools.
(4) School and community advisory committees.
(5) Joint school and home learning activities.
(6) Classroom visits before problems arise.
(7) Parent surveys.
(8) Parent education and workshops.
(9) Preschool preparation.

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 624,552
..... FTEs 25.20

3. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,442,574
..... FTEs 278.00

It is the intent of the general assembly that the division of vocational rehabilitation services of the department of education shall seek, in addition to state appropriations, funds other than federal funds, which may include but are not limited to local funds, for purposes of matching federal vocational rehabilitation funds.

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:

..... $ 20,638
..... FTEs 1.50

4. CORRECTIONS EDUCATION PROGRAM

For educational programs at state penal institutions:

..... $ 1,850,600

5. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 170,386
..... FTEs 2.00

The moneys appropriated by this subsection shall be reduced by $50,000 if an increase in the fees charged by the board of educational examiners does not result in an increase of at least $50,000 in revenues to the board during the fiscal year beginning July 1, 1993.

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:

..... $ 2,716,859
..... 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:

..... $ 551,000

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, and for other youth activities:

..... $ 59,400

9. STATE LIBRARY

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,289,464
..... FTEs 35.00

10. REGIONAL LIBRARY

For state aid:

..... $ 1,425,000

11. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,834,384
..... FTEs 91.00

12. CENTER FOR ASSESSMENT

For the purpose of developing academic standards in the areas of math, history, science, English, language arts, and geography:

..... $ 300,000

13. TECHNOLOGY

For support for the department of education technology commission:

..... $ 40,000

14. ASSESSMENT

For participation by the department of education in a state and national project to determine the academic achievement of Iowa students in math, reading, science, United States history, or geography:

..... $ 50,000

15. COMMUNITY COLLEGES

Notwithstanding chapter 260D, 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 260C.2, for vocational education programs in accordance with chapters 258 and 260C, to purchase instructional equipment for vocational and technical courses of instruction in community colleges, and for salary increases:

..... $ 95,070,486

The funds appropriated in this subsection shall be allocated as follows:

a.	Merged Area I	$ 4,460,571
b.	Merged Area II	$ 5,377,221
c.	Merged Area III	$ 5,128,220
d.	Merged Area IV	$ 2,411,165
e.	Merged Area V	$ 5,173,574
f.	Merged Area VI	$ 4,828,453
g.	Merged Area VII	$ 6,588,757
h.	Merged Area IX	$ 8,374,255
i.	Merged Area X	$ 12,991,658
j.	Merged Area XI	$ 13,975,919
k.	Merged Area XII	$ 5,458,240
l.	Merged Area XIII	$ 5,644,712
m.	Merged Area XIV	$ 2,493,332
n.	Merged Area XV	$ 7,788,056
o.	Merged Area XVI	$ 4,376,353

Sec. 2. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. Notwithstanding chapter 260D 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, 1993, and ending June 30, 1994:

..... $ 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, 1994.

Sec. 3. 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:

To supplement the appropriation in section 294A.25 for phase II:

..... $ 535,755

Sec. 4. 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:

..... $ 3,308,850

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 260C.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.

Sec. 5. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 3,308,850

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 260C.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. 6. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 290,697
..... FTEs 7.05

2. HIGHER EDUCATION STRATEGIC PLANNING COUNCIL

For funding the higher education strategic planning council:

..... $ 28,445

3. UNIVERSITY OF OSTEOPATHIC MEDICINE AND HEALTH SCIENCES

a. For forgivable loans to Iowa students attending the university of osteopathic medicine and health sciences, under the forgivable loan program pursuant to section 261.19A:

..... $ 379,260

b. For the university of osteopathic medicine and health sciences for an initiative in primary health care to direct primary care physicians to shortage areas in the state:

..... $ 245,000

From the moneys appropriated in this lettered paragraph, at least $122,500 for the fiscal year beginning July 1, 1993, shall be dedicated to reducing the student loan debt for resident Iowa students in return for a fixed period of medical service in the state of Iowa. The university of osteopathic medicine and health sciences shall report quarterly to the legislative fiscal bureau concerning the expenditure of funds appropriated in this lettered paragraph.

4. STUDENT AID PROGRAMS

For payments to students for student aid programs:

..... $ 1,469.790

From the moneys appropriated in this subsection, $1,397,790 for the fiscal year beginning July 1, 1993, 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.

Sec. 7. There is appropriated from the loan reserve account to the college student aid commission for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amounts, 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:

..... $ 4,278,463
..... FTEs 33.27

STATE BOARD OF REGENTS

Sec. 8. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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:

..... $ 1,073,283
..... FTEs 15.63

If the moneys provided in this lettered paragraph are 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, the office shall report quarterly such reimbursements to the chairpersons and ranking members of the joint subcommittee on education appropriations.

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:

..... $ 23,608,580

c. For funds to be allocated to the southwest Iowa graduate studies center:

..... $ 67,300

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 66,640

e. For funds to be allocated to the quad-cities graduate studies center:

..... $ 142,100

2. STATE UNIVERSITY OF IOWA

a. General university, including lakeside laboratory

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ $179,843,736
..... FTEs 3,990.37

b. For the primary health care initiative in the department of family practice, and for not more than the following full-time equivalent positions:

..... $ 330,000
..... FTEs 4.00

The college of medicine shall allocate these funds for family practice faculty and support staff in the department of family practice to increase family practice educational experiences for medical students, with an emphasis on practices and educational experiences in rural communities. The college of medicine shall report quarterly to the legislative fiscal bureau regarding the status of faculty employed under this paragraph.

c. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes for medical and surgical treatment of indigent patients as provided in chapter 255, and for not more than the following full-time equivalent positions:

..... $ 27,949,615
..... FTEs 5,364.14

Funds appropriated in this lettered 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 lettered 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 year commencing July 1, 1993, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1992. The total quota shall be allocated among the counties on the basis of the 1990 census pursuant to section 255.16.

d. 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:

..... $ 6,750,550
..... FTEs 284.00

e. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,403,665
..... FTEs 163.81

f. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,744,900
..... FTEs 63.58

g. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,971,697
..... FTEs 100.93

h. 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:

..... $ 1,759,791
..... FTEs 153.74

i. 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:

..... $ 416,124
..... FTEs 10.96

j. Agricultural health and safety programs

For agricultural health and safety programs, and for not more than the following full-time equivalent positions:

..... $ 242,179
..... FTEs 2.47

k. Statewide tumor registry

For the statewide tumor registry, and for not more than the following full-time equivalent positions:

..... $ 183,021
..... FTEs 3.07

l. Substance abuse consortium

For funds to be allocated to the Iowa consortium for substance abuse research and evaluation, and for not more than the following full-time equivalent positions:

..... $ 60,146
..... FTEs 1.15

m. Center for biocatalysis

For the center for biocatalysis:

..... $ 1,278,777

n. National advanced driving simulator

For the national advanced driving simulator:

..... $ 266,560

It is the intent of the general assembly to provide sufficient funding to ensure the university of Iowa receives federal matching funds for the national advanced driving simulator to be located at the Oakdale research park.

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries, support, maintenance, equipment, and miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 144,459,834
..... FTEs 3,556.28

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 27,283,207
..... FTEs 498.56

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, miscellaneous purposes, including salaries and support for the fire service institute, and for not more than the following full-time equivalent positions:

..... $ 17,419,472
..... FTEs 428.28

It is the intent of the general assembly that the cooperative extension service in agriculture and home economics ensure that Iowa manufacturing centers have access to an outreach specialist and receive adequate service from the center for industrial research and service. The cooperative extension service and the center for industrial research and service shall make reasonable efforts to locate at least one outreach specialist in metropolitan areas or manufacturing centers in Iowa, including, but not limited to, the cities of Cedar Rapids, Council Bluffs, Davenport, Des Moines, Dubuque, Mason City, Sioux City, Spencer, Washington, and Waterloo. It is the intent of the general assembly that Iowa state university of science and technology consult with community colleges and other providers of service to manufacturers in determining where to locate outreach specialists.

d. Institute for physical research and technology

For the institute for physical research and technology:

..... $ 700,000

It is the intent of the general assembly that the institute for physical research and technology's industrial incentive program, at Iowa state university of science and technology, 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's 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 committees on appropriations of the senate and house of representatives, 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.

e. Leopold center

For agricultural research grants at Iowa state university under section 266.39B, and for not more than the following full-time equivalent positions:

..... $ 560,560
..... FTEs 12.58

f. For deposit in and the use of the livestock disease research fund under section 267.8:

..... $ 275,969

4. UNIVERSITY OF NORTHERN IOWA

a. For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 64,364,506
..... FTEs 1,416.43

The college of education shall work collaboratively with the department of education in developing activities in order to support the work of the department of education technology commission and the STAR schools program.

b. Recycling and reuse center:

..... $ 239,745

5. STATE SCHOOL FOR THE DEAF

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,094,398

..... FTEs 124.14

6. IOWA BRAILLE AND SIGHT SAVING SCHOOL

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,427,243

..... FTEs 91.36

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:

..... $ 6,860

Sec. 9. Reallocations of sums received under section 8, subsections 2, 3, 4, 5, and 6, of this Act, including sums received for salaries, shall be reported on a quarterly basis to the cochairpersons and ranking members of the legislative fiscal committee and the joint appropriations subcommittee on education.

Sec. 10. For the fiscal year beginning July 1, 1993, 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. 11. For the fiscal period beginning July 1, 1992, and ending June 30, 1994, the department of human services shall continue the supplemental disproportionate share and a supplemental indirect medical education adjustment applicable to state-owned acute care hospitals with more than 500 beds and shall reimburse qualifying hospitals pursuant to that adjustment with a supplemental amount for services provided medical assistance recipients. The adjustment shall generate supplemental 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 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. 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 general fund of the state. 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 payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup the supplemental 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 period beginning October 1, 1992, and ending September 30, 1994, pursuant to section 1923 (f)(3) of the federal Social Security Act, as amended, or pursuant to federal payments for indirect medical education is greater than the amount necessary to fund the federal share of the supplemental payments specified in the preceding paragraph, the department of human services shall increase the supplemental disproportionate share or supplemental indirect medical education

adjustment by the lesser of the amount necessary to utilize fully the state supplemental amount or the amount of state funds appropriated to the state university of Iowa general education fund and allocated to the university for the college of medicine. The state 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 payments made during the previous month pursuant to this paragraph. A qualifying hospital receiving supplemental 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 state university of Iowa general education fund on a monthly basis an amount equal to the funds transferred by the state university of Iowa to the department of human services. To the extent that state funds appropriated to the state 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 payments made to the qualifying hospital, the department shall not, directly or indirectly, recoup these supplemental 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 state university of Iowa pursuant to this paragraph is transferred to the qualifying hospital by the department.

Continuation of the supplemental disproportionate share and supplemental indirect medical education 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 state university of Iowa for educational purposes 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 and supplemental indirect medical education 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.

For purposes of this section, "supplemental 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. 12. There is appropriated from the general fund of the state to the department of cultural affairs 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. ARTS DIVISION

For salaries, support, maintenance, and miscellaneous purposes, including funds to match federal grants, for areawide arts and cultural service organizations that meet the requirements of chapter 303C, and for not more than the following full-time equivalent positions:

.....	$	1,037,745
.....	FTEs	11.00

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	2,258,673
.....	FTEs	60.00

3. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	225,866
.....	FTEs	4.50

4. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 203,543

..... FTEs 5.30

5. COMMUNITY CULTURAL GRANTS

For planning and programming for the community cultural grants program established under section 303.3 and for not more than the following full-time equivalent position:

..... $ 701,600

..... FTEs .70

Not more than 5 percent of moneys appropriated for grants under this subsection shall be used for administrative purposes.

Sec. 13. Notwithstanding section 8.33, funds appropriated in 1992 Iowa Acts, chapter 1246, section 10, subsection 1, paragraph "b", remaining unencumbered or unobligated on June 30, 1993, shall not revert to the general fund of the state but shall be available for expenditure for the purposes listed in section 8, subsection 1, paragraph "b", of this Act during the fiscal year beginning July 1, 1993, and ending June 30, 1994.

Sec. 14. Notwithstanding sections 257B.1 and 257B.1A, for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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. 15. Notwithstanding any other provision of the Code, or any provision of the administrative code, the operation of the Plum Grove residence of former Governor Lucas is transferred from the department of natural resources to the historical division of the department of cultural affairs.

Sec. 16. Section 18.136, subsection 3, Code 1993, 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. A local school board may elect to provide one hundred percent of the financing for the procurement and maintenance costs for Part III to become part of 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 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. Construction of Part III of the system may proceed before Part I and Part II of the system have been completed.

Sec. 17. Section 257.14, unnumbered paragraph 1, Code 1993, is amended to read as follows:

For the budget years commencing July 1, 1991, July 1, 1992, ~~and~~ July 1, 1993, July 1, 1994, and July 1, 1995, 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. 18. NEW SECTION. 257A.9 IOWA STATE FAIR SCHOLARSHIP FUND CREATED.

The Iowa state fair scholarship fund is established in the office of treasurer of state. Notwithstanding section 12C.7, interest earned on money in the Iowa state fair scholarship fund shall be deposited into the fund and may be used by the governing board only for Iowa state fair scholarship awards.

Sec. 19. Section 260D.14A, unnumbered paragraph 1, Code 1993, 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 260C.45 and 260C.46. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, ~~1993~~ 1995, 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. 20. Section 261.2, subsection 4, Code 1993, is amended to read as follows:

4. Prepare and administer a state plan for a state supported and administered scholarship program. The state plan shall provide for scholarships to deserving students of Iowa, matriculating in Iowa universities, colleges, community colleges, or schools of professional nursing. Eligibility of a student for receipt of a scholarship ~~during the student's first year of eligibility~~ shall be based upon academic achievement and completion of advanced level courses prescribed by the commission. ~~Continuation of the scholarship in subsequent years shall be based upon the student's financial need and the maintenance by the student of a cumulative grade point average of at least a three point zero on a four point zero grading scale or its equivalent.~~

Sec. 21. Section 261.25, subsections 1, 2, and 3, Code 1993, 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-one million ~~one~~ five hundred ~~forty-six~~ twenty-three thousand ~~eight~~ nine hundred ~~sixty-seven~~ thirty 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 ~~five~~ four hundred ~~five~~ seventy-four 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 ~~two~~ three hundred ~~sixty-one~~ eighty-five thousand seven hundred eighty dollars for vocational-technical tuition grants.

Sec. 22. Section 261.85, unnumbered paragraph 1, Code 1993, 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 two million ~~nine hundred fifty-eight~~ eight hundred ninety-eight thousand eight hundred forty dollars for the work-study program.

Sec. 23. NEW SECTION. 262.33A FIRE AND ENVIRONMENTAL SAFETY — REPORT — EXPENDITURES.

It is the intent of the general assembly that each institution of higher education under the control of the state board of regents shall, in consultation with the state fire marshal, identify and correct all critical fire and environmental safety deficiencies. The state fire marshal shall report annually to the joint subcommittee on education appropriations. The report shall include, but is not limited to, the identified deficiencies in fire and environmental safety at the institutions, and plans for correction of the deficiencies and for compliance with this section. Commencing July 1, 1993, each institution under the control of the state board of regents shall expend annually for fire safety and deferred maintenance at least the amount budgeted for these purposes for the fiscal year beginning July 1, 1992, in addition to any moneys appropriated from the general fund for these purposes in succeeding years.

Sec. 24. NEW SECTION. 267.8 LIVESTOCK DISEASE RESEARCH FUND.

There is created in the office of the treasurer of state a fund to be known as the livestock disease research fund. Any balance in said fund on June 30 of each fiscal year shall revert to the general fund.

Sec. 25. Section 294A.14, unnumbered paragraph 9, Code 1993, is amended to read as follows:

For school districts, additional instructional work assignments may include but are not limited to general curriculum planning and development, vertical articulation of curriculum, horizontal curriculum coordination, development of educational measurement practices for the school district, participation in assessment activities leading to certification by the national board for professional teaching standards, attendance at workshops and other programs for service as cooperating teachers for student teachers, development of plans for assisting beginning teachers during their first year of teaching, attendance at summer staff development programs, development of staff development programs for other teachers to be presented during the school year, and other plans locally determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the school district.

Sec. 26. Section 294A.25, subsection 5A, Code 1993, is amended to read as follows:

5A. ~~Commencing with~~ For the fiscal year beginning July 1, 1992, the amount of ~~three~~ two hundred ~~thirty-five~~ fifty thousand dollars from phase III moneys for the support of school transformation pilot projects administered by the department of education through the new Iowa schools development corporation. ~~Funds appropriated in this subsection may be used for projects by nonprofit corporations representing a coalition of organizations interested in school improvement in Iowa.~~

Sec. 27. Section 294A.25, subsection 5A, Code 1993, is amended by striking the subsection.

Sec. 28. Section 294A.25, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 5B. Commencing with the fiscal year beginning July 1, 1993, the amount of fifty thousand dollars for geography alliance, seventy thousand dollars for gifted

and talented, and one hundred eighty thousand dollars for a management information system from additional funds transferred from phase I to phase III.

NEW SUBSECTION. 5C. For the fiscal year beginning July 1, 1993, to the department of education from phase III moneys the amount of seven hundred fifty thousand dollars for support for the operations of the new Iowa schools development corporation and for school transformation design and implementation projects administered by the corporation and the amount of seven hundred fifty thousand dollars for purposes specified in the math and science grant program under section 256.36, which may include support for the early mathematics prognostic testing program at Iowa state university of science and technology. However, the funds appropriated for purposes specified in the math and science grant program under section 256.36, are contingent on the receipt of federal funding from the state systemic initiative for improving mathematics and science education grant. If federal funding from the state systems* initiative for improving mathematics and science education is not received, the amount of two hundred fifty thousand dollars shall be used, in addition to any other appropriations, for the operations of the new Iowa schools development corporation and for school transformation design and implementation projects administered by the corporation.

Sec. 29. Section 303.18, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The historical division shall repay a portion of the amount of the loan together with annual interest payments due on the balance of the loan over a ten-year period commencing with the fiscal year beginning July 1, 1987. Payments shall be made from gross receipts and other moneys available to the historical division. The historical division shall solicit voluntary contributions on behalf of the historical division, at the entrance and other locations throughout the state historical building ~~and collect entrance fees for the Montauk governor's mansion~~ for purposes of raising funds for making payments under this section. ~~Annual payments shall not be less than the amount of interest on the permanent school fund required to be transferred to the first in the nation in education foundation under section 257B.1A or seventy-five percent of the gross receipts, whichever is greater.~~ Payments of both principal and interest made by the state historical division under this section shall be paid quarterly and shall be considered interest earned on the permanent school fund to the extent necessary for payment of interest to the first in the nation in education foundation under section ~~302.1A~~ 257B.1A.

Sec. 30. The amounts appropriated in sections 2 and 5 of this Act shall be reduced by any amount appropriated to the GAAP deficit reduction account established in section 8.57, subsection 2, which shall be spent during the fiscal year beginning July 1, 1993, for the purposes for which moneys are appropriated in sections 2 and 5 of this Act.

Sec. 31. The college student aid commission shall notify a student who received a scholarship under section 261.2, subsection 4, for the fiscal year beginning July 1, 1993, that the student will not be eligible to continue to receive the scholarship under section 261.2, subsection 4, in succeeding fiscal years.

Sec. 32. Sections 260C.49 through 260C.55, Code 1993, are repealed.

Sec. 33. 1992 Iowa Acts, chapter 1246, section 7, is repealed.

Sec. 34. EFFECTIVE DATE. Sections 11, 13, 26, and 33 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 27, 1993

*"systemic" probably intended

CHAPTER 180

STANDING APPROPRIATIONS, CAPITAL PROJECTS, AND OTHER BUDGETARY MATTERS

S.F. 425

AN ACT relating to and making appropriations to finance state government, its regulatory functions, and its obligations, and providing effective and applicability date provisions.

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

DIVISION I
STANDING APPROPRIATIONS

Section 1. Section 8.59, Code 1993, is amended to read as follows:

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, 229.35, 230.8, 230.11, 405A.8, 411.20, 425.1, 425.39, 426A.1, ~~453A.7,~~ 663.44, and 822.5.

Sec. 2. Section 422.65, unnumbered paragraph 1, Code 1993, is amended to read as follows:

All moneys received from the franchise tax shall be deposited in the state general fund. ~~Forty-five percent of all~~ Commencing with the fiscal year beginning July 1, 1993, there is appropriated for each fiscal year from the franchise tax money received and deposited in the state general fund the sum of eight million eight hundred thousand dollars which shall be paid quarterly on warrants by the director, after certification by the director, as follows:

**Sec. 3.* *Section 425.1, subsections 1 through 5, Code 1993, are amended to read as follows:*

1. A homestead credit fund is created. There is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the homestead credit fund, ~~an amount sufficient to implement this chapter~~ the amount as provided in section 8.59.

The director of revenue and finance shall issue warrants on the homestead credit fund payable to the county treasurers of the several counties of the state under this chapter.

2. The homestead credit fund shall be apportioned each year so as to give a credit against the tax on each eligible homestead in the state in an amount equal to the actual levy on the ~~first four thousand eight hundred fifty dollars of actual value for each homestead~~ allowable homestead value.

3. For purposes of this chapter, the "allowable homestead value" means for the fiscal year beginning July 1, 1994, the amount equal to the appropriation made in subsection 1 for the fiscal year beginning July 1, 1994, divided by the actual amount of homestead claims for taxes due in the fiscal year beginning July 1, 1993, times four thousand eight hundred fifty dollars. For succeeding fiscal years, the allowable homestead value equals the appropriation for that fiscal year divided by the actual amount of homestead claims for taxes due in the previous fiscal year times the allowable homestead value calculated under this subsection for the previous fiscal year.

~~3~~ 4. *The amount due each county shall be paid* by the department of revenue and finance *in two payments on November 15 and March 15 of each fiscal year, drawn upon warrants payable to the respective county treasurers. The two payments shall be as nearly equal as possible.*

~~4~~ 5. ~~Annually the department of revenue and finance shall estimate the credit not to exceed the actual levy on the first four thousand eight hundred fifty dollars of actual value of each eligible homestead, and shall certify to the county auditor of each county the credit and its~~

*Item veto; see message at end of the Act

~~amount in dollars.~~ The director of revenue and finance shall certify to the county auditor of each county, by April 15 preceding the fiscal year in which the credit is to be paid, the amount of allowable homestead value. *Each county auditor shall then enter the credit against the tax levied on each eligible homestead in each county payable during the ensuing year, designating on the tax lists the credit as being from the homestead credit fund, and credit shall then be given to the several taxing districts in which eligible homesteads are located in an amount equal to the credits allowed on the taxes of the homesteads. The amount of credits shall be apportioned by each county treasurer to the several taxing districts as provided by law, in the same manner as though the amount of the credit had been paid by the owners of the homesteads. However, the several taxing districts shall not draw the funds so credited until after the semiannual allocations have been received by the county treasurer, as provided in this chapter. Each county treasurer shall show on each tax receipt the amount of credit received from the homestead credit fund.*

If the appropriation made in subsection 1 is insufficient to pay all claims in full, the director shall prorate the amount available to each county.

~~5. If the homestead tax credit computed under this section is less than sixty-two dollars and fifty cents, the amount of homestead tax credit on that eligible homestead shall be sixty-two dollars and fifty cents subject to the limitation imposed in this section.*~~

Sec. 4. Section 425.17, subsections 2 and 7, Code 1993, are amended to read as follows:

2. "Claimant" means ~~a~~ either of the following:

a. A person filing a claim for credit or reimbursement under this division who has attained the age of ~~eighteen~~ sixty-five years on or before December 31 of the base year, who is a surviving spouse having attained the age of fifty-five years on or before December 31, 1988, or who is totally disabled and was totally disabled 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~~.

b. A person filing a claim for credit or reimbursement under this division who has attained the age of twenty-three years on or before December 31 of the base year or was a head of household on December 31 of the base year, as defined in the Internal Revenue Code, but has not attained the age or disability status described in paragraph "a", 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 was not claimed as a dependent on any other person's tax return for the base year.

"Claimant" under paragraph "a" or "b" 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.

7. "Income" means the sum of Iowa net income as defined in section 422.7, plus all of the following to the extent not already included in Iowa net income: Capital gains, alimony, child support money, cash public assistance and relief, except property tax relief granted under this division, amount of in-kind assistance for housing expenses, the gross amount of any pension or annuity, including but not limited to railroad retirement benefits, all payments received under the federal social security Act, and all military retirement and veterans' disability pensions, interest received from the state or federal government or any of its instrumentalities, workers' compensation and the gross amount of disability income or "loss of time" insurance. "Income" does not include gifts from nongovernmental sources, or surplus foods or other

*Item veto; see message at end of the Act

relief in kind supplied by a governmental agency. In determining income net operating losses and net capital losses shall not be considered.

Sec. 5. Section 425.23, subsection 1, Code 1993, is amended to read as follows:

1. a. The tentative credit or reimbursement for a claimant described in section 425.17, subsection 2, paragraph "a" and paragraph "b" if no appropriation is made to the fund created in section 425.40 shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — 5,999.99	100%
6,000 — 6,999.99	85
7,000 — 7,999.99	70
8,000 — 9,999.99	50
10,000 — 11,999.99	35
12,000 — 13,999.99	25

b. If moneys have been appropriated to the fund created in section 425.40, the tentative credit or reimbursement for a claimant described in section 425.17, subsection 2, paragraph "b", shall be determined as follows:

(1) If the amount appropriated under section 425.40 plus any supplemental appropriation made for a fiscal year for purposes of this lettered paragraph is at least twenty-seven million dollars, the tentative credit or reimbursement shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — 5,999.99	100%
6,000 — 6,999.99	85
7,000 — 7,999.99	70
8,000 — 9,999.99	50
10,000 — 11,999.99	35
12,000 — 13,999.99	25

(2) If the amount appropriated under section 425.40 plus any supplemental appropriation made for a fiscal year for purposes of this lettered paragraph is less than twenty-seven million dollars the tentative credit or reimbursement shall be determined in accordance with the following schedule:

If the household income is:	Percent of property taxes due or rent constituting property taxes paid allowed as a credit or reimbursement:
$ 0 — 5,999.99	50%
6,000 — 6,999.99	42
7,000 — 7,999.99	35
8,000 — 9,999.99	25
10,000 — 11,999.99	17
12,000 — 13,999.99	12

Sec. 6. Section 425.23, subsection 3, paragraph a, Code 1993, 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 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 an unpaid special assessment is presently levied against the homestead. The department shall provide to the respective 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, 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 upon the unpaid special assessment, plus interest, payable during the fiscal year for which the claim is filed against the homestead of the claimant. However, where the claimant is an individual described in section 425.17, subsection 2, paragraph "b", and the tentative credit is determined according to the schedule in section 425.23, subsection 1, paragraph "b", subparagraph (2), the claim filed constitutes a claim for credit of an amount equal to one-half of the actual amount due and payable during the fiscal year. The department of revenue and finance shall, upon the filing of the claim with the department by the treasurer, pay that amount of the unpaid special assessment during the current fiscal year to the treasurer. The 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 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 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. 7. Section 423.24, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Twenty percent of all revenue derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7 shall be deposited in the GAAP deficit reduction account established in the department of management pursuant to section 8.57, subsection 2, and shall be used in accordance with the provisions of that section.

Sec. 8. Section 425.39, Code 1993, is amended to read as follows:

425.39 FUND CREATED — APPROPRIATION.

*1. *The extraordinary property tax credit and reimbursement fund is created. There is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the extraordinary property tax credit and reimbursement fund, from funds not otherwise appropriated,* ~~an amount sufficient to implement this division~~ the sum of ten million eight hundred thousand dollars to pay credits and reimbursements for all claimants for which partial funding is not provided from an appropriation made to the fund created in section 425.40.*

2. If the amount appropriated under subsection 1, as limited by section 8.59, plus any supplemental appropriation made for purposes of this section for a fiscal year is insufficient to pay all claims in full, the director shall pay, in full, all claims to be paid during the fiscal year for reimbursement of rent constituting property taxes paid or if moneys are insufficient to pay all such claims on a pro rata basis. If the amount of claims for credit for property taxes due to be paid during the fiscal year 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 this division, claims for reimbursement for rent constituting property taxes paid filed before May 1 of the fiscal year shall be eligible to be

*Item veto; see message at end of the Act

paid in full during the fiscal year and those claims filed on or after May 1 of the fiscal year shall be eligible to be paid during the following fiscal year and the director is not required to make payments to counties for the property tax credit before June 15 of the fiscal year.

Sec. 9. NEW SECTION. 425.40 LOW-INCOME FUND CREATED — APPROPRIATION.

1. A low-income tax credit and reimbursement fund is created. **Beginning July 1, 1994, there is appropriated annually from the general fund of the state to the department of revenue and finance to be credited to the low-income tax credit and reimbursement fund the sum of thirteen million five hundred thousand dollars to pay credits and reimbursements for claimants described in section 425.17, subsection 2, paragraph "b".**

2. If the amount appropriated under subsection 1 plus any supplemental appropriation made for purposes of this section for a fiscal year is insufficient to pay all claims in full, the director shall pay, in full, all claims to be paid during the fiscal year for reimbursement of rent constituting property taxes paid or if moneys are insufficient to pay all such claims on a pro rata basis. If the amount of claims for credit for property taxes due to be paid during the fiscal year 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 this division, claims for reimbursement for rent constituting property taxes paid filed before May 1 of the fiscal year shall be eligible to be paid in full during the fiscal year and those claims filed on or after May 1 of the fiscal year shall be eligible to be paid during the following fiscal year and the director is not required to make payments to counties for the property tax credit before June 15 of the fiscal year.

Sec. 10. Section 425A.1, Code 1993, is amended to read as follows:

425A.1 FAMILY FARM TAX CREDIT FUND.

The family farm tax credit fund is created in the office of the treasurer of state. There ~~is appropriated~~ shall be transferred annually to the fund ~~from funds in the general fund not otherwise appropriated the sum of~~ the first ten million dollars of the amount annually appropriated to the agricultural land credit fund, provided in section 426.1. Any balance in the fund on June 30 shall revert to the general fund.

Sec. 11. Section 426.1, Code 1993, is amended to read as follows:

426.1 AGRICULTURAL LAND CREDIT FUND.

There is ~~hereby~~ created as a permanent fund in the office of the treasurer of state a fund to be known as the agricultural land credit fund, and for the purpose of establishing and maintaining ~~said~~ this fund for each fiscal year there is appropriated thereto from funds in the general fund not otherwise appropriated the sum of ~~forty-three~~ thirty-nine million ~~five~~ one hundred thousand dollars of which the first ten million dollars shall be transferred to and deposited into the family farm tax credit fund created in section 425A.1. Any balance in said fund on June 30 shall revert to the general fund.

Sec. 12. Section 427B.17, Code 1993, is amended to read as follows:

427B.17 PROPERTY SUBJECT TO SPECIAL VALUATION.

For property defined in section 427A.1, subsection 1, paragraphs "e" and "j", acquired or initially leased on or after January 1, ~~1985~~ 1982, the taxpayer's valuation shall be limited to thirty percent of the net acquisition cost of the property. For purposes of this section, "net acquisition cost" means the acquired cost of the property including all foundations and installation cost less any excess cost adjustment.

For purposes of this section:

1. Property assessed by the department of revenue and finance pursuant to sections 428.24 to 428.29, or chapters 433, 434 and 436 to 438 shall not receive the benefits of this section.

2. Property acquired ~~on or~~ before January 1, ~~1985~~ 1982, which was owned or used ~~on or~~ before January 1, ~~1985~~ 1982, by a related person shall not receive the benefits of this section.

3. Property acquired on or after January 1, ~~1985~~ 1982, which was owned and used by a related person shall not receive any additional benefits under this section.

*Item veto; see message at end of the Act

4. Property which was owned or used ~~on or~~ before January 1, ~~1985~~ 1982, and subsequently acquired by an exchange of like property shall not receive the benefits of this section.

5. Property which was acquired on or after January 1, ~~1985~~ 1982, and subsequently exchanged for like property shall not receive any additional benefits under this section.

6. Property acquired ~~on or~~ before January 1, ~~1985~~ 1982, which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive the benefits of this section.

7. Property acquired on or after January 1, ~~1985~~ 1982, which is subsequently leased to a taxpayer or related person who previously owned the property shall not receive any additional benefits under this section.

For purposes of this section, "related person" means a person who owns or controls the taxpayer's business and another business entity from which property is acquired or leased or to which property is sold or leased. Business entities are owned or controlled by the same person if the same person directly or indirectly owns or controls fifty percent or more of the assets or any class of stock or who directly or indirectly has an interest of fifty percent or more in the ownership or profits.

Property assessed pursuant to this section shall not be eligible to receive a partial exemption under sections 427B.1 to 427B.6.

Sec. 13. Section 453A.7, unnumbered paragraph 2, Code 1993, is amended to read as follows:

There is ~~hereby~~ appropriated ~~out of any funds in the state treasury not otherwise appropriated sufficient funds~~ annually from the general fund of the state the sum of one hundred fifteen thousand dollars to carry out the provisions of this section.

Sec. 14. Notwithstanding the standing appropriation in section 285.2, there is appropriated pursuant to section 285.2 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:

To provide funds for costs of providing transportation services to nonpublic school pupils as authorized by section 285.2:

..... $ 6,894,293

Sec. 15. 1992 Iowa Acts, 2nd Extraordinary Session, chapter 1001, section 225, is amended to read as follows:

SEC. 225. Section 215~~,~~ and 216~~, 220, 221, 222, and 223~~ of this Act take effect January 1, 1993, for mobile home tax claims ~~and property tax claims~~ filed on or after that date. Sections 220, 221, 222, and 223 of this Act take effect January 1, 1994, for property tax claims filed on or after that date. Sections 220, 221, and 222 of this Act are applicable to rent reimbursement claims filed on or after January 1, ~~1994~~ 1995.

Sec. 16. Notwithstanding the provisions in 1990 Iowa Acts, chapter 1250, sections 6, 8, 9, and 21; 1991 Iowa Acts, chapter 267, sections 524 and 529; and 1992 Iowa Acts, 2nd Extraordinary Session, chapter 1001, section 225; authorizing property tax credits or rent reimbursements for persons whose income is less than $14,000 and who have not obtained the age of 65 or are not totally disabled on or before December 31 of the base year, as defined in section 425.17, or are not surviving spouses who have attained the age of 55 on or before December 31, 1988, such persons shall not be entitled to a property tax credit or rent reimbursement pursuant to sections 425.17 through 425.39 prior to the effective date of sections 4 through 6 and 8 and 9 of this Act, as applicable, and all claims for such property tax credit filed before January 1, 1994, and for such rent reimbursement filed before January 1, 1995, shall not be allowed.

Sec. 17. LOTTERY TRANSFER. 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, 1993, and ending June 30, 1994, after deductions for expenses as provided in section 99E.10, subsection 1, and as appropriated under any Act of the 75th General Assembly, 1993 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. 18. Notwithstanding the standing appropriation in section 331.660, there is appropriated pursuant to section 331.660 from the general fund of the state to the county of Tama for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the payment of salary and expenses of a deputy sheriff responsible for law enforcement on the Indian settlement as provided in section 331.660:

..... $ 58,750

Sec. 19. EDUCATIONAL EXCELLENCE. For the fiscal year beginning July 1, 1993, and ending June 30, 1994, the appropriation made to the department of education pursuant to section 294A.25, subsection 1, shall be reduced by $750,000.

Sec. 20. Sections 427B.10 through 427B.12 and 427B.14, Code 1993, are repealed.

Sec. 21.* *Section 3 of this division takes effect January 1, 1994, for homestead credit claims for property taxes payable on or after July 1, 1994.

Sec. 22. Sections 4 through 6 **and 8** and 9 of this Act take effect January 1, 1994, for property tax claims filed on or after that date. Sections 4, 5, **8,** and 9 of this Act are applicable to rent reimbursement claims filed on or after January 1, 1995.

Sec. 23. Sections 15 and 16 of this Act, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1993.

DIVISION II
CAPITAL PROJECTS
DEPARTMENT OF COMMERCE

Sec. 24. There is appropriated from the general fund of the state to the department of commerce for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For roof repair on the liquor warehouse:

..... $ 350,000

DEPARTMENT OF CORRECTIONS

Sec. 25. There is appropriated from the general fund of the state to the department of corrections for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For critical maintenance needs at correctional facilities:

..... $ 300,000

DEPARTMENT OF EDUCATION

Sec. 26. 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 is necessary, to be used for the purpose designated:

For roof repair on the building housing the division of vocational rehabilitation:

..... $ 30,000

*Item veto; see message at end of the Act

DEPARTMENT OF HUMAN SERVICES

Sec. 27. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For critical maintenance needs:

..... $ 300,000

DEPARTMENT OF PUBLIC DEFENSE

Sec. 28. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For capital repairs at the Boone armory:

..... $ 108,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 29. 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, 1993, and ending June 30, 1994, the following amounts, or so much thereof as is necessary, to be used for the purpose designated:

For purposes of funding capitals traditionally funded from marine fuel tax receipts for the purposes specified in section 452A.79:

..... $ 1,650,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30, 1994, from moneys appropriated for purposes of funding capitals traditionally funded from marine fuel tax receipts as provided in this section for the fiscal year beginning July 1, 1993, shall revert to the general fund of the state on September 30, 1995.

STATE FAIR — NATURAL RESOURCES — CAPITOL COMPLEX

Sec. 30. Notwithstanding 1992 Iowa Acts, chapter 1247, section 45, of the lottery revenues remaining after $43,200,000 are transferred and credited to the general fund of the state, the following amounts shall be transferred in descending priority order as follows:

1. To the Iowa state fair board for deposit in the foundation fund under the control of the board as provided in section 173.22 for purposes of supporting capital improvements to the Iowa state fairgrounds, including the repair and renovation of structures and the repair or replacement of essential items related to the infrastructure of the fairgrounds:

..... $ 500,000

The moneys deposited pursuant to this subsection shall be expended by the foundation on a one dollar to two dollar matching basis with moneys contributed to the foundation by private sources. Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30, 1994, from moneys deposited under this subsection shall remain in the Iowa state fair foundation fund.

2. To the treasurer of state for purposes of allocating moneys to assist each of the 103 county fairs which are members of the association of Iowa fairs, for purposes of supporting annual county fairs and improvements to the county fairgrounds:

..... $ 206,000

The treasurer of state shall allocate an equal amount to each fair qualified to receive assistance. However, moneys must be expended by a county fair on a dollar-for-dollar matching basis with moneys received from donations contributed to the county fair from private sources or moneys contributed by a county to aid the county fair pursuant to section 174.14. Notwithstanding section 8.33, moneys transferred pursuant to this subsection which

remain unobligated or unexpended on June 30, 1993, shall not revert to the general fund of the state but shall remain available in the succeeding fiscal year for use as provided in this subsection.

3. To the department of general services for the fiscal year beginning July 1, 1992, and ending June 30, 1993, and used for the purposes designated:

a. For continued restoration of the exterior of the state capitol building:

..... $ 814,957

b. For facility remodeling to be in compliance with the federal Americans with Disabilities Act:

..... $ 100,000

c. For roof repair on the capitol annex:

..... $ 60,000

d. For roof repair on the Hoover building:

..... $ 30,000

e. For deck repair at the Wallace building:

..... $ 15,500

As provided in section 8.33, the moneys transferred pursuant to this subsection shall not revert to the general fund of the state at the end of any fiscal year but shall continue to be available until the projects are completed.

4. To the following entities of state government:

a. To the department of economic development for the fiscal year beginning July 1, 1993, and ending June 30, 1994, 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 conducting a study to develop a plan for the utilization of state institutions and their physical and human resources and entering into contracts and chapter 28E agreements as specified in paragraph "c":

..... $ 25,000

b. To the university of northern Iowa for the decision-making institute for the fiscal year beginning July 1, 1993, and ending June 30, 1994, in addition to other appropriations made to the university for that fiscal year, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For conducting a study to develop a plan for the utilization of state institutions and their physical and human resources and entering into contracts and chapter 28E agreements as specified in paragraph "c":

..... $ 25,000

c. The department of economic development and the institute for decision-making at the university of northern Iowa, in consultation with the department of human services and the department of corrections, shall conduct a study to develop a plan for the utilization of the physical and human resources of communities containing state institutions which are undergoing or may undergo substantial changes in mission, scope, and size of operations. The communities and state institutions examined in the study and included in the plan shall include those specified in sections 218.1 and 904.102. The department of economic development and the decision-making institute may use the funds appropriated pursuant to this subsection to enter into contracts or chapter 28E agreements with political subdivisions, other state departments or state institutions, or other persons in the affected communities to assist in the planning process. The plan shall consider the interests of the communities in providing for economic development, the interests of the affected workers in the institutions, the necessity of providing state services on a statewide basis and the impact of any action in one institution upon other state institutions providing similar services, and the effect of the plan upon state resources. The department of economic development and the decision-making institute shall submit a report detailing the plan to the governor and the general assembly on or before January 15, 1994.

d. Notwithstanding section 8.39, the department of economic development and the decision-making institute of the university of northern Iowa may transfer the funds appropriated pursuant to this subsection as necessary to effectuate the purposes of this subsection.

5. To the department of natural resources for the fiscal year beginning July 1, 1993, and ending June 30, 1994, to be used as provided in this subsection:

..... $ 200,000

The moneys appropriated in this section shall be used to support natural lake preservation. The department shall award the amount appropriated in this subsection to a city as defined in section 362.2 on a matching basis with the department contributing one dollar for each one dollar dedicated by the city, or the city acting in conjunction with a county, for natural lake preservation, if the money is dedicated on or after March 1, 1991. However, the city, or the city and county, must have dedicated at least $200,000 of local funds in order to qualify for the award. The city must also be located in a county having a population of less than 12,000.

Sec. 31. Section 99E.10, subsection 1, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. For the fiscal year beginning July 1, 1993, after the first $33,000,000 is transferred to the general fund of the state, $500,000 shall be deposited in the Iowa state fair foundation in the office of the treasurer of state to be used by the foundation fund for capital projects or major maintenance improvements at the Iowa state fairgrounds. For the fiscal period beginning July 1, 1994, and ending June 30, 1996, $500,000 shall annually be deposited in the Iowa state fair foundation fund in the office of the treasurer of state to be used by the foundation for capital projects or major maintenance improvements at the Iowa state fairgrounds. Matching funds from other sources shall not be required for expenditure of funds deposited pursuant to this subsection.

Sec. 32. BACKBONE PARK STUDY. The department of natural resources shall conduct a study to determine the feasibility of dredging Backbone Lake. The study shall include but is not limited to a review and update of the study of the lake performed in 1974. The department shall report concerning the study to the general assembly by January 30, 1994.

Sec. 33. EFFECTIVE DATE. Section 30 of this division, being deemed of immediate importance, takes effect upon enactment.

DIVISION III
ECONOMIC DEVELOPMENT PROVISIONS

Sec. 34. Section 15.108, subsection 5, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. o. Establish a revolving fund to receive contributions to be used for cooperative advertising efforts. Fees and royalties obtained as a result of licensing the use of logos and other creative materials for sale by private vendors on selected products may be deposited in the fund. The department shall adopt by rule a schedule for fees and royalties to be charged.

Sec. 35. Section 15.108, subsection 5, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may establish a revolving fund to receive contributions and funds from the product sales center to be used for startup or expansion of tourism special events, fairs, and festivals as established by department rule.

Sec. 36. Section 15.111, subsection 1, Code 1993, is amended by striking the subsection.

Sec. 37. Section 15.111, subsection 2, paragraph a, Code 1993, is amended by striking the paragraph.

Sec. 38. NEW SECTION. 15.112 FARMWORKS MATCHING FUNDS.

If the federal government funds the "farmworks" national demonstration project for distressed family farmers, the department shall allocate to the project from the rural enterprise fund or another fund, an amount equal to four percent of the federal funding each year for a three-year period on a dollar-for-dollar matching basis with local or private contributions.

Sec. 39. Section 15.225, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Apprenticeship opportunities in conjunction with paragraphs "a" through "d" or in accordance with rules adopted by the board.

Sec. 40. Section 15.251, subsection 2, Code 1993, is amended to read as follows:

2. The department may charge, within thirty days following the sale of certificates under chapter ~~280B~~ 260E, the board of directors of the merged area a fee of up to one percent of the gross sale amount of the certificates issued. The amount of this fee shall be deposited into a job training fund created in the ~~office of the treasurer of state~~ department and may be used by the department to cover the costs of management of chapter ~~280B~~ 260E and to support other efforts by the community colleges related to providing productivity and quality enhancement training. Funds deposited under this subsection into the job training fund during a fiscal year which are not expended by the department in that fiscal year are available for use by the department under this subsection for subsequent fiscal years.

Sec. 41. Section 15.287, unnumbered paragraph 2, Code 1993, is amended to read as follows:

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 and to provide matching funds under the Cranston-Gonzalez National Affordable Housing Act of 1990, Pub. L. No. 101-625.

Sec. 42. Section 15E.92, Code 1993, is amended to read as follows:

15E.92 REPORTING AND FUND SOLVENCY.

The chairperson of the corporation on or before ~~July 30~~ December 31 of each fiscal year shall make and deliver a report to the governor and the legislative fiscal committee. The report shall include all transactions conducted by the corporation in the preceding fiscal year. The report shall also include a balance sheet outlining the financial solvency of the Iowa product development corporation fund, a certified copy of any audits of the corporation conducted in the preceding fiscal year, and other information requested by the governor or the legislative fiscal committee.

Sec. 43. Section 15E.169, subsection 1, Code 1993, is amended to read as follows:

1. The purpose of this section is to provide for or facilitate the development of organizations, structures, or other entities organized to provide capital or technical or other assistance to start new Iowa businesses or to help existing Iowa businesses remain viable or expand through the incorporation under chapter 504A of a nonprofit corporation to organize, capitalize, and fund ~~an~~ the following:

a. 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.

b. An Iowa-based Iowa development bank or other community development entity organized to take advantage of the availability of federal programs, funds, guarantees, or other initiatives for the benefit of Iowa communities and small businesses.

Sec. 44. Section 260F.6, subsection 1, Code 1993, is amended to read as follows:

1. There is established for the community colleges a community college job training fund ~~under the supervision of the treasurer of state~~ in the department of economic development. 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 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.

Sec. 45. Section 260F.8, Code 1993, is amended to read as follows:

260F.8 ALLOCATION.

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

~~a. Retraining projects.~~ The department shall ~~set aside~~ allocate by formula at the beginning of the fiscal year from the moneys ~~newly appropriated to~~ in 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. 46. 1992 Iowa Acts, chapter 1244, section 1, subsection 2, paragraph e, is amended to read as follows:

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 or other entity under sections ~~28.162~~ 15E.169 through ~~28.164~~ 15E.171. If the small business investment company or another entity for which the funds are to be used is not organized within ~~eighteen~~ twenty-four months of the effective date of this Act, unused funds shall revert to the general fund of the state: ..... $ 200,000

Sec. 47. 1993 Iowa Acts, Senate File 227,* section 8, is amended to read as follows:

SEC. 8. Notwithstanding other provisions of law to the contrary, $50,000 of the moneys collected in the rural community 2000 revolving fund created in section 15.287 during fiscal year ~~1993~~ 1992-1993 shall be carried forward and deposited in the economic development deaf interpreters revolving fund created in section 15.108, subsection 7, paragraph "j" on July 1, ~~1994~~ 1993.

Sec. 48. 1993 Iowa Acts, Senate File 227,* section 8, as amended by this Act, takes effect upon the enactment of this Act.

*Chapter 167 herein

DIVISION IV
TOOLS OF THE TRADE

Sec. 49. AID TO DEPENDENT CHILDREN — TOOLS OF THE TRADE DISREGARD. Of the funds appropriated for medical assistance in 1993 Iowa Acts, House File 518,* section 3, $427,000 is allocated for costs associated with disregard of a self-employed individual's tools of the trade or capital assets under the aid to dependent children program in accordance with the provisions of 1993 Iowa Acts, Senate File 268,** as approved for implementation by the federal government.

DIVISION V
MEDICAL ASSISTANCE LIEN

Sec. 50. Section 249A.6, Code 1993, is amended to read as follows:

249A.6 ~~SUBROGATION~~ LIEN.

1. When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department ~~is subrogated~~ shall have a lien, to the extent of those payments, to all monetary claims which the recipient may have against third parties. A lien under this section is not effective unless the department files a notice of lien with the clerk of the district court in the county where the recipient resides and with the recipient's attorney when the recipient's eligibility for medical assistance is established. The notice of lien shall be filed before the third party has concluded a final settlement with the recipient, the recipient's attorney, or other representative. The third party shall obtain a written determination from the department concerning the amount of the lien before a settlement is deemed final for purposes of this section. A compromise, including but not limited to a settlement, waiver or release, of a claim ~~to which the department is subrogated~~ under this section does not defeat the department's ~~right of recovery~~ lien except pursuant to the written agreement of the director or the director's designee ~~or except as provided in this section~~. A settlement, award, or judgment structured in any manner not to include medical expenses or an action brought by a recipient or on behalf of a recipient which fails to state a claim for recovery of medical expenses does not defeat the department's ~~right of subrogation~~ lien if there is any recovery on the recipient's claim ~~unless the claim for recovery of medical expenses is barred by an applicable statute of limitation, or the legal representative of the medical assistance recipient does not represent the person or persons who have legal standing to bring the claim for recovery of medical expenses. In such situations, the legal representative shall notify the department of the situation; the department may then notify the person or persons having legal standing to bring the claim of the right to proceed with the claim against the third-party tort-feasor. Should the person or persons elect not to proceed, the department may then proceed in a separate action with a claim to recover its subrogation interest~~.

2. The department shall be given notice of monetary claims against third parties as follows:

a. Applicants for medical assistance shall notify the department of any possible claims against third parties upon submitting the application. Recipients of medical assistance shall notify the department of any possible claims when those claims arise.

b. A person who provides health care services to a person receiving assistance through the medical assistance program shall notify the department whenever the person has reason to believe that third parties may be liable for payment of the costs of those health care services.

c. An attorney representing an applicant for or recipient of assistance on a claim to which the department ~~is subrogated~~ has a lien under this section shall notify the department of the claim of which the attorney has actual knowledge, prior to filing a claim, commencing an action or negotiating a settlement offer. Actual knowledge under this section shall include the notice to the attorney pursuant to subsection 1.

The mailing and deposit in a United States post office or public mailing box of the notice, addressed to the department at its state or district office location, is adequate legal notice of the claim.

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*Chapter 172 herein

**Chapter 97 herein

3. The ~~subrogation rights of the department are~~ department's lien is valid and binding on an attorney, insurer, or other third party only upon notice by the department or unless the attorney, insurer, or third party has actual notice that the recipient is receiving medical assistance from the department and only to the extent to which the attorney, insurer, or third party has not made payment to the recipient or an assignee of the recipient prior to the notice. Payment of benefits by an insurer or third party pursuant to the ~~subrogation~~ rights of the lienholder in this section discharges the attorney, insurer, or third party from liability to the recipient or the recipient's assignee to the extent of the payment to the department.

4. If a recipient of assistance through the medical assistance program incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the department ~~is subrogated~~ has a lien under this section, upon the receipt of ~~a~~ the judgment or settlement of the total claim, of which the lien for medical assistance payments is a part, the court costs and reasonable attorney fees shall first be deducted from ~~the~~ this total judgment or settlement. One-third of the remaining balance shall then be deducted and paid to the recipient. From the remaining balance, the ~~claim~~ lien of the department shall be paid. Any amount remaining shall be paid to the recipient. An attorney acting on behalf of a recipient of medical assistance for the purpose of enforcing a claim to which the department ~~is subrogated~~ has a lien shall not collect from the recipient any amount as attorney fees which is in excess of the amount which the attorney customarily would collect on claims not subject to this section.

5. For purposes of this section the term "third party" includes an attorney, individual, institution, corporation, or public or private agency which is or may be liable to pay part or all of the medical costs incurred as a result of injury, disease or disability by or on behalf of an applicant for or recipient of assistance under the medical assistance program.

6. The department may enforce its lien by a civil action against any liable third party.

Sec. 51. Section 602.8102, subsection 82, Code 1993, is amended to read as follows:

82. Carry out duties relating to liens as provided in chapters 249A, 570, 571, 572, 574, 580, 581, 582, and 584.

Sec. 52. 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 the provisions of this division. The rules shall become effective immediately upon filing, unless a later effective date is specified in the rules, and the rules shall be in effect for a period of 180 days following the date the rules take effect. 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.

DIVISION VI
RAILROAD SANITATION AND LABOR PROVISIONS

Sec. 53. Section 84A.2, subsection 2, Code 1993, is amended to read as follows:

2. The division of labor services is responsible for the administration of the laws of this state relating to occupational health and safety, the inspection of amusement rides, the removal and encapsulation of asbestos, the inspection of boilers, wage payment collection, registration of construction contractors, the minimum wage, non-English speaking employees, child labor, employment agency licensing, boxing and wrestling, inspection of elevators, and hazardous chemical risks under chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91, 91A, ~~91B~~ 91C, 91D, 91E, 92, 94, and 95~~, and section 327F.37~~. The executive head of the division is the labor commissioner, appointed pursuant to section 91.2.

Sec. 54. Section 88.5, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12. RAILWAY SANITATION, SHELTER, AND POTABLE WATER. A railway corporation within the state shall provide adequate sanitation and shelter for all railway employees. The commissioner shall adopt rules requiring railway corporations within the state to provide a safe and healthy workplace. For purposes of this section, a locomotive engine includes all railway engines used in train or yard service. The commissioner shall enforce the requirements of this section upon the receipt of a written complaint.

Sec. 55. Section 88.8, subsection 3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If an employer notifies the commissioner that the employer intends to contest a citation issued under section 88.7, or notification issued under subsection 1 or 2 of this section or if, within fifteen working days of the issuance of a citation under section 88.7, any employee or authorized employee representative files a notice with the commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the commissioner shall immediately advise the appeal board of such notification, and the appeal board shall afford an opportunity for a hearing. At the hearing, the appeal board shall act as an adjudicatory body. The appeal board shall thereafter issue an order, based on findings of fact, affirming, modifying, or vacating the commissioner's citation or proposed penalty or directing other appropriate relief, and such order shall become final thirty days after its issuance. Upon a showing by an employer of a good faith effort to comply with the abatement requirements of a citation, and that abatement has not been completed because of factors beyond the employer's reasonable control, the commissioner, after an opportunity for a hearing shall issue an order affirming or modifying the abatement requirements in such citation. The rules of procedure prescribed by the appeal board shall provide affected employees or representatives of affected employees an opportunity to participate as parties to hearings under this subsection, and shall conform to rules of procedure ~~promulgated and~~ adopted under the federal law by federal authorities insofar as the ~~same~~ federal rules of procedure do not conflict with state law.

Sec. 56. Section 88.9, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The commissioner may obtain judicial review or enforcement of any final order or decision of the appeal board by filing a petition in the district court of the county in which the alleged violation occurred or in which the employer has its principal office. The judicial review provisions of chapter 17A shall govern such proceedings to the extent applicable.

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 10A.601, subsection 7, and chapter 17A, the commissioner has the exclusive right to represent the appeal board in any judicial review of an appeal board decision under this chapter in which the commissioner does not appeal the appeal board decision, except as provided by section 88.17.

Sec. 57. Section 88.9, subsection 2, Code 1993, is amended to read as follows:

2. UNCONTESTED APPEAL BOARD ORDERS. ~~The commissioner may also obtain review or enforcement of any final order of the appeal board by filing a petition for such relief in the district court of the county in which the alleged violation occurred or in which the employer has its principal office and the judicial review provisions of the Iowa administrative procedure Act shall govern such proceedings to the extent applicable.~~ If no petition for judicial review is filed within sixty days after service of the appeal board's order, the appeal board's findings of fact and order shall be conclusive in connection with any petition for enforcement which is filed by the commissioner after the expiration of such sixty-day period. In any such case, as well as in the case of a noncontested citation or notification by the commissioner which has become a final order of the appeal board under section 88.8, subsection 1 or 2, the clerk of the district court, unless otherwise ordered by the court, shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the appeal board and the employer named in the petition. In any contempt proceeding brought to enforce a decree of a district court entered pursuant to this subsection or subsection 1 ~~of this section~~, the district court may assess the penalties provided in section 88.14 in addition to invoking any other available remedies.

Sec. 58. Section 91.4, subsection 5, Code 1993, is amended to read as follows:

5. The director of the department of employment services, in consultation with the labor commissioner, shall, at the time provided by law, make an annual report to the governor setting forth in appropriate form the business and expense of the division of labor services for

the preceding year, the number of disputes or violations processed by the division and the disposition of the disputes or violations, and other matters pertaining to the division which are of public interest, together with recommendations for change or amendment of the laws in this chapter and chapters 88, 88A, 88B, 89, 89A, 89B, 90A, 91A, ~~91B~~ 91C, 91D, 91E, 92, 94, and 95, ~~and in section 327F.37,~~ and the recommendations, if any, shall be transmitted by the governor to the first general assembly in session after the report is filed.

Sec. 59. Sections 327F.37 and 327F.38, Code 1993, are repealed.

DIVISION VII
MISCELLANEOUS PROVISIONS

Sec. 60. COUNCIL ON HUMAN INVESTMENT — ADMINISTRATIVE COSTS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For administrative costs relating to the council on human investment in fiscal year 1993-1994, in accordance with the provisions of 1993 Iowa Acts, Senate File 268:*

..... $ 123,000

Sec. 61. 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, 1993, and ending June 30, 1994, 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:

..... $ 125,000

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. 62. IMAGES. 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 amount of $60,000 to be allocated to Merged Area XI, to be used for the purposes of grants to students for the Iowa minority academic grants for economic success program under sections 261.101 through 261.105.

Sec. 63. There is appropriated from the general fund of the state to the Iowa Special Olympics, Incorporated, for the fiscal year beginning July 1, 1993, the sum of $15,000 to be used for Iowa special olympics programs benefiting the citizens of Iowa with disabilities.

Sec. 64. IOWA COMPUTER INITIATIVE. Notwithstanding the requirement in section 99E.10, subsection 1, to transfer lottery revenue remaining after expenses are deducted, following the transfer of revenues in the amount of $33,000,000, the next $250,000 is appropriated from the lottery fund to the department of education for the fiscal year beginning July 1, 1993, and ending June 30, 1994, to be used for the Iowa computer initiative and establishment of an educational technology consortium which may enter into contracts for services to fulfill the duties of the consortium. Notwithstanding section 8.33, the funds appropriated in this section for the Iowa computer initiative shall not revert at the end of the fiscal year, but may be expended in the next fiscal year for the same purposes for which they were appropriated.

Sec. 65. DRUG ABUSE RESISTANCE EDUCATION. Notwithstanding section 8.33, of the funds appropriated to the department of public safety pursuant to 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 404, $15,000 shall not revert to the general fund

*Chapter 97 herein

of the state on June 30, 1993, but shall be considered encumbered and shall be transferred to the law enforcement academy and used during the fiscal year beginning July 1, 1993, to enhance project D.A.R.E. (drug abuse resistance education) activities.

Sec. 66. NATIONAL HERITAGE LANDSCAPE. Notwithstanding other provisions of law to the contrary, $50,000 of the moneys deposited in the rural community 2000 revolving fund created in section 15.287 during the fiscal year beginning July 1, 1992, shall be carried forward into the fiscal year beginning July 1, 1993, and is appropriated for that year to the department of economic development to coordinate promotion of state and local efforts to establish a national heritage landscape in Iowa, including the payment of expenses of the department and other state agencies related to this project. The department shall disburse only those funds which are matched by an equivalent amount of funds from local communities, businesses, or other nonstate funds.

Notwithstanding section 8.33, moneys for the national heritage landscape remaining unencumbered or unobligated on June 30, 1994, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1994, for the same purpose.

Sec. 67. There is appropriated from the general fund of the state to the division of inspections of the department of inspections and appeals, if House File 659* is enacted by the 75th General Assembly, 1993 Session, for the fiscal year beginning July 1, 1993, the sum of $10,000, or so much thereof as is necessary, for data processing services for implementation of House File 659, if so enacted. This appropriation is in addition to any other appropriation made to the department of inspections and appeals.

Sec. 68. If Senate File 394** is enacted by the 75th General Assembly, 1993 Session, the division of investigations of the department of inspections and appeals is authorized an additional 1.0 full-time equivalent position for implementation of Senate File 394, if so enacted.

Sec. 69. LUCAS STATE OFFICE BUILDING.

1. The division of insurance of the department of commerce and the department of general services shall continue the fire, safety, and federal Americans with Disabilities Act renovations initiated pursuant to 1990 Iowa Acts, chapter 1266, section 13, subsection 7, for the Lucas state office building.

2. Funds for the renovations shall be made available for the purposes of subsection 1 to the extent the revenue of the division of insurance exceeds state revenue projections for fiscal year 1992-1993, and all other appropriations from that revenue are satisfied. In no event shall expenditures exceed the amount necessary for the Lucas state office building to meet minimum fire, safety, and federal Americans with Disabilities Act requirements.

3. It is the intent of the general assembly that the requirements of this section shall be accomplished as soon after the effective date of this section as practically feasible.

Sec. 70. COOPERATIVE ACTIVITIES — DEPARTMENTS OF HUMAN SERVICES AND PUBLIC HEALTH.

1. The department of human services and the Iowa department of public health shall request technical assistance from outside state government in order to jointly examine the potential for increasing federal funding under the medical assistance program for the provision of community-based substance abuse treatment. The departments shall periodically report to the legislative fiscal bureau concerning the outside technical assistance.

2. The department of human services and the Iowa department of public health shall cooperate in developing additional marketing and advertising materials targeted to families with children covered under the medical assistance program. The materials shall be designed to publicize the importance of preventive health services, including but not limited to scheduled screenings covered under the early and periodic screening, diagnosis, and treatment (EPSDT) provisions and periodic immunizations. The departments shall jointly seek the assistance of the private sector in designing these materials and shall periodically report to the legislative fiscal bureau.

*Not enacted

**Chapter 106 herein

Sec. 71. DIVISION OF NARCOTICS ENFORCEMENT – VEHICLE PURCHASE. It is the intent of the general assembly that the division of narcotics enforcement of the department of public safety shall purchase no more than five motor vehicles of the same make or model based upon specifications submitted by the department.

Sec. 72. Section 25.1, Code 1993, is amended to read as follows:

25.1 RECEIPT, INVESTIGATION, AND REPORT.

When a claim is filed or made against the state, on which in the judgment of the director of management the state would be liable except for the fact of its sovereignty or which has no appropriation available for its payment, the director of management shall deliver ~~said~~ that claim to the state appeal board. The state appeal board shall make a record of the receipt of ~~said~~ that claim and forthwith deliver ~~same~~ it to the special assistant attorney general for claims who shall, with a view to determining the merits and legality ~~thereof~~ of it, fully investigate ~~said~~ the claim, including the facts upon which it is based and report in duplicate findings and conclusions of law to the state appeal board. To help defray the initial costs of processing a claim and the costs of investigating a claim, the department of management may assess a processing fee and a fee to reimburse the office of the attorney general for the costs of the claim investigation against the state agency which incurred the liability of the claim.

Sec. 73. Section 25.2, Code 1993, is amended to read as follows:

25.2 EXAMINATION OF REPORT – APPROVAL OR REJECTION – PAYMENT.

The state appeal board with the recommendation of the special assistant attorney general for claims may approve or reject claims against the state of less than ten years covering the following: Outdated warrants; outdated sales and use tax refunds; license refunds; additional agricultural land tax credits; outdated invoices; fuel and gas tax refunds; outdated homestead and veterans' exemptions; outdated funeral service claims; tractor fees; registration permits; outdated bills for merchandise; services furnished to the state; claims by any county or county official relating to the personal property tax credit; and refunds of fees collected by the state. Payments authorized by the state appeal board shall be paid from the appropriation or fund of original certification of the claim~~, except, that if such~~. However, if that appropriation or fund has since reverted under section 8.33 then such payment authorized by the state appeal board shall be out of any money in the state treasury not otherwise appropriated. Notwithstanding the provisions of this section, the director of revenue and finance may reissue outdated warrants.

Sec. 74. Section 159A.7, subsection 3, as enacted in 1992 Iowa Acts, chapter 1099, section 4, is amended to read as follows:

3. Moneys shall be deposited in the ethanol production incentive account as provided in section 423.24. One percent of the moneys deposited in the account during each quarter shall be allocated to the department for administration of the office. ~~The~~ Remaining 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.

Sec. 75. Section 312.2, subsection 19, paragraph a, Code 1993, is amended to read as follows:

a. The treasurer of state, before making the allotments provided for in this section, for the fiscal year beginning July 1, 1990, and each succeeding fiscal year, credit from the road use tax fund two million dollars to the county bridge construction fund, which is hereby created. Moneys credited to the county bridge construction fund shall be allocated to counties by the department for bridge construction, ~~and~~ reconstruction, replacement, or realignment based on needs in accordance with rules adopted by the department.

Sec. 76. Section 331.441, subsection 2, paragraph b, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (13) The acquisition, pursuant to a chapter 28E agreement, of a city convention center or veterans memorial auditorium, including the renovation, remodeling, reconstruction, expansion, improvement, or equipping of such a center or auditorium

provided, that debt service funds shall not be derived from the division of taxes under section 403.19.

Sec. 77. 1990 Iowa Acts, chapter 1267, section 9, subsection 2, as amended by 1992 Iowa Acts, chapter 1238, section 39, 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, ~~1993~~ 1994, 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. 78. 1993 Iowa Acts, Senate File 343,* section 2, subsection 2, paragraph b, is amended to read as follows:

b. The coordinate system south zone is a Lambert conformal conic ~~project~~ projection of the north American datum of 1983, having standard parallels at north latitudes forty degrees, thirty-seven minutes, and forty-one degrees, forty-seven minutes, along which parallels the scale shall be exact. The origin of coordinates is at the intersection of the meridian ninety-three degrees, thirty minutes west of Greenwich, and the parallel forty degrees, zero minutes north latitude. This origin is given the coordinates: x equals five hundred thousand meters exact and y equals zero meters exact.

Sec. 79. Section 135H.4, Code 1993, as amended by 1993 Iowa Acts, House File 518,** section 29, is amended to read as follows:

135H.4 LICENSURE.

A person shall not establish, operate, or maintain a psychiatric medical institution for children unless the person obtains a license for the institution under this chapter and either holds a license under section 237.3, subsection 2, paragraph "a", as a comprehensive residential facility for children or holds a license under section 125.13, if the facility provides substance abuse treatment.

Sec. 80. Section 135H.6, subsection 6, Code 1993, as amended by 1993 Iowa Acts, House File 518,** section 30, is amended to read as follows:

6. The proposed psychiatric institution is under the direction of an agency which has operated a facility licensed under section 237.3, subsection 2, paragraph "a", as a comprehensive residential facility for children for three years or of an agency which has operated a facility for three years providing psychiatric services exclusively to children or adolescents and the facility meets or exceeds requirements for licensure under section 237.3, subsection 2, paragraph "a", as a comprehensive residential facility for children.

Sec. 81. OPEN ENROLLMENT STUDY. The legislative council is requested to contract with the north central regional education laboratory to conduct a study of the effects of open enrollment under section 282.18 upon the education system of this state and upon the school districts affected by open enrollment. Fifty percent of the costs of the contract shall be provided by a source other than the legislative council.

Sec. 82. STATE AUDIT. The auditor of state shall conduct a comprehensive audit, as described in section 11.4, of the expenditures made from the state communications network fund and the actions taken by the Iowa public broadcasting board and the department of general services in relation to the state communications network. The auditor shall have access and authority to examine any and all records necessary to complete the comprehensive audit. Any moneys necessary to conduct the audit shall be paid from the state communications network fund. The auditor shall complete the audit and present a copy of the findings to the general assembly and the governor by January 1, 1994.

*Chapter 50 herein

**Chapter 172 herein

Sec. 83. Notwithstanding section 291.13, if the moneys credited to the schoolhouse fund of a school district from tax revenues collected under the physical plant and equipment levy during the fiscal year beginning July 1, 1992, are insufficient to pay the costs specified in a contract for renovating a high school building located in the district for use by grade school students pursuant to a school reorganization contract, and the board has not received authorization from the school budget review committee under section 257.31, subsection 7, the board of the school district may expend an amount not to exceed one hundred thousand dollars of moneys in the district's general fund for purposes of the school building renovation.

Sec. 84. EFFECTIVE DATE AND APPLICABILITY. Section 83 of this division, being deemed of immediate importance, takes effect upon enactment and is applicable to the school budget year beginning July 1, 1992.

Sec. 85. EFFECTIVE DATE. Sections 65, 66, 69, 77, 78, 79, and 80 of this division, being deemed of immediate importance, take effect upon enactment.

**Sec. 86. The legislative council shall authorize a study committee on privatization of state functions. The committee would consider the recommendations of the Fisher commission, the senate appropriations subcommittee on privatization, receive information and testimony from other sources, and make recommendations.*

The committee membership would be as follows:

1. Three senators, two appointed by the majority leader, one appointed by the minority leader.

2. Three representatives, two appointed by the speaker of the house of representatives, one appointed by the minority leader.

The legislative council shall designate temporary co-chairpersons from among the legislative members.

3. One ex officio, nonvoting member who shall be the director of the department of management or the director's designee.

4. One member each representing private business and a state employee labor organization appointed by the legislative council. Members appointed under this subsection will be entitled to receive their actual expenses for attending meetings of the committee.

*The committee shall present its recommendations by November 15, 1993.**

Sec. 87. PRIVATIZATION — STATE EMPLOYEE CONSULTATION. A state agency or department shall consult with and consider alternatives proposed by employees of the department or organizations representing state employees prior to privatizing functions provided by the agency or department.

DIVISION VIII
LIENS

Sec. 88. Section 554.9310, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A perfected security interest in collateral takes priority over any lien that is given equal precedence with ordinary taxes under chapter 260E or 260F, or its successor provisions, except for a lien under chapter 260E or 260F upon the collateral described in a financing statement or a job training agreement satisfying the requirements for a financing statement under section 554.9402, subsection 1, which is perfected by filing the financing statement or the job training agreement with the secretary of state prior to the perfection of a conflicting security interest, and a subordinate lien under chapter 260E or 260F may be divested or discharged by judicial sale, as provided in part 5 of this article 9 or by other available legal remedy notwithstanding any provision to the contrary contained in chapter 260E or 260F, or its successor provisions. Nothing in this section shall abrogate the collection of, or any lien for, unpaid property taxes which have attached to real estate pursuant to chapter 445, including taxes levied against tangible property that is assessed and taxed

*Item veto; see message at end of the Act

as real property pursuant to chapter 427A, or the collection of, or any lien for, unpaid taxes for which notice of lien has been properly recorded or filed pursuant to section 422.26.

Sec. 89. Section 554.9402, subsection 1, Code 1993, is amended to read as follows:

1. A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to section 554.9103, subsection 5, or when the financing statement is filed as a fixture filing (section 554.9313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection 5. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A copy of a jobs training agreement entered into under chapter 260E or 260F between an employer and a community college is sufficient as a financing statement if it contains the information required by this section and is signed by the employer. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state. The secretary of state must accept for filing a copy of a signature required by this section. The secretary of state may adopt rules for the electronic filing of a financing statement.

Sec. 90. Section 558.1, Code 1993, is amended to read as follows:

558.1 "INSTRUMENTS AFFECTING REAL ESTATE" DEFINED — REVOCATION.

All instruments containing a power to convey, or in any manner relating to real estate, including certified copies of petitions in bankruptcy with or without the schedules appended, of decrees of adjudication in bankruptcy, and of orders approving trustees' bonds in bankruptcy, and a jobs training agreement entered into under chapter 260E or 260F between an employer and community college which contains a description of the real estate affected, shall be held to be instruments affecting the same; and no such instrument, when acknowledged or certified and recorded as in this chapter prescribed, can be revoked as to third parties by any act of the parties by whom it was executed, until the instrument containing such revocation is acknowledged and filed for record in the same office in which the instrument containing such power is recorded, except that uniform commercial code financing statements and financing statement changes need not be thus acknowledged.

Sec. 91. Section 558.41, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An interest in real estate evidenced by an instrument so filed shall have priority over any lien that is given equal precedence with ordinary taxes under chapter 260E or 260F, or its successor provisions, except for a lien under chapter 260E or 260F upon the real estate described in an instrument or job training agreement filed in the office of the recorder of the county in which the real estate is located prior to the filing of a conflicting instrument affecting the real estate, and a subordinate lien under chapter 260E or 260F may be divested or discharged by judicial sale or by other available legal remedy notwithstanding any provision to the contrary contained in chapter 260E or 260F, or its successor provisions. Nothing in this section shall abrogate the collection of, or any lien for, unpaid property taxes which have attached to real estate pursuant to chapter 445, including taxes levied against tangible property that is assessed and taxed as real property pursuant to chapter 427A, or the collection of, or any lien for, unpaid taxes for which notice of lien has been properly recorded pursuant to section 422.26.

DIVISION IX
REORGANIZE SCHOOL DISTRICTS

Sec. 92. Section 257.3, subsection 1, Code 1993, is amended to read as follows:

1. AMOUNT OF TAX. Except as provided in ~~subsection~~ subsections 2 and 2A, a school district shall cause to be levied each year, for the school general fund, a foundation property tax equal to five dollars and forty cents per thousand dollars of assessed valuation on all taxable property in the district. The county auditor shall spread the foundation levy over all taxable property in the district.

Sec. 93. Section 257.3, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. A reorganized school district which meets the requirements of this section for reduced property tax rates, but failed to vote on reorganization or dissolution prior to November 30, 1990, and failed to certify such action to the department of education by September 1, 1991, shall cause to be levied a foundation property tax of four dollars and sixty cents per thousand dollars of assessed valuation on all eligible taxable property pursuant to this section. In succeeding school years, the foundation property tax levy on that portion shall be increased twenty cents per year until it reaches the rate of five dollars and forty cents per thousand dollars of assessed valuation.

Sec. 94. Section 257.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. If a reorganized school district, whose foundation property tax is reduced under subsection 2, reorganizes within five school years from the time of its original reorganization to which subsection 2 applies, the resulting reorganized school district shall cause to be levied a foundation property tax on the taxable property in that portion of the new reorganized district which, in the year preceding the latest reorganization, was within the original reorganized school district to which subsection 2 applies equal to one dollar per thousand dollars of assessed value less than the rate the original reorganized district would have levied under subsection 2 for the same school year if there had been no new reorganization. In succeeding school years, the foundation property tax on that portion of the new reorganized school district shall be increased by forty cents for the first succeeding year and by twenty cents per year thereafter until it reaches the rate of five dollars and forty cents per thousand dollars of assessed valuation.

Sec. 95. Section 257.3, subsection 3, Code 1993, is amended to read as follows:

3. RAILWAY CORPORATIONS. For purposes of section 257.1, the "amount per pupil of foundation property tax" does not include the tax levied under subsection 1, ~~or~~ 2, or 2A on the property of a railway corporation, or on its trustee if the corporation has been declared bankrupt or is in bankruptcy proceedings.

Sec. 96. Section 257.11, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. School districts that have executed whole grade sharing agreements under section 282.10 through 282.12 beginning with the budget year beginning on July 1, 1993, and that received supplementary weighting for shared teachers or classes under this subsection for the school year ending prior to the effective date of the whole grade sharing agreement shall include in its supplementary weighting amount additional pupils added by the application of the supplementary weighting plan, equal to the pupils added by the application of the supplementary weighting plan pursuant to this subsection in the budget year beginning July 1, 1992. If at any time after July 1, 1993, a district ends a whole grade sharing agreement with the original district and does not enter into a whole grade sharing agreement with an alternative district, the school district shall reduce its supplementary weighting amount by the number of pupils added by the application of the supplementary weighting in this subsection in the budget year beginning July 1, 1992, in the budget year that the whole grade sharing agreement is terminated.

Sec. 97. CONTINGENT EFFECTIVE DATE. If the actual taxable valuation of real property located in this state, based upon January 1, 1992, assessments, which is used in the computation of property taxes payable in the fiscal year beginning July 1, 1993, increases from the estimate of such taxable valuation then 1993 Iowa Acts, House File 496,* if enacted, takes effect July 1, 1993, and then this division, being deemed of immediate importance, takes effect upon its enactment for the purpose of computations required for payment of state aid and levying of property taxes by school districts for the budget year beginning July 1, 1993.

DIVISION X
RECYCLING — PACKAGING

Sec. 98. Section 455D.16, Code 1993, is amended to read as follows:

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 July 1, 1993, and by fifty percent by July 1, 1994. If the recycling goals are not reached, beginning January 1, ~~1995~~ 1996, a person shall not manufacture, offer for sale, sell, or use any polystyrene packaging products or food service items in this state.

Approved May 28, 1993, except the items which I hereby disapprove and which are designated as Section 3 in its entirety; that portion of Section 8 which is herein bracketed in ink and initialed by me; that portion of Section 9 which is herein bracketed in ink and initialed by me; Section 21 in its entirety; those portions of Section 22 which are herein bracketed in ink and initialed by me; and Sections 86 and 87 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 425, an Act relating to and making appropriations to finance state government, its regulatory functions, and its obligations, and providing effective and applicability date provisions.

Senate File 425 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Sections 3 and 21, in their entirety. These provisions would result in a $22 million property tax increase on homeowners in 1995.

I am unable to approve the designated portion of Section 8, the designated portion of Section 9, and the designated portions of Section 22. These provisions would fund a new program with a standing appropriation of $13.5 million effective in fiscal year 1995. This is a substantial funding commitment for future fiscal years. Such commitments must be avoided if the state is to continue on the path towards fiscal responsibility.

I am unable to approve the item designated as Section 86, in its entirety. This provision would require the Legislative Council to authorize a study committee on privatization. The Council already has statutory authority to establish study committees, therefore this language is unnecessary.

*Chapter 160 herein

I am unable to approve the item designated as Section 87, in its entirety. This provision would direct agencies to consult with employees and to consider alternatives prior to privatizing state functions. These activities already occur as standard practice, therefore this language is unnecessary.

Finally, I want to express disappointment about the way in which the General Assembly funded critical capital needs in this bill. Section 30 makes a series of appropriations for capitals contingent on lottery funds exceeding a specified level. In reality, only the first item on the list is likely to receive funding. This practice by the legislature only raises false hopes that some capital needs will be met.

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 425 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 181

BOARD OF REGENTS FIVE-YEAR BUILDING PROGRAM

H.C.R. 24

A CONCURRENT RESOLUTION relating to the state board of regents five-year building program.

WHEREAS, pursuant to section 262A.3, the state board of regents prepared and within seven days after the convening of the Seventy-fifth General Assembly of the State of Iowa, First Session, submitted to the Seventy-fifth General Assembly, First Session, for approval the proposed five-year building program for each institution of higher learning under the jurisdiction of the board, containing a list of the buildings and facilities which the board deems necessary to further the educational objectives of the institutions, together with an estimate of the cost of each of the buildings and facilities and an estimate of the maximum amount of revenue bonds which the board expects to issue under chapter 262A for the fiscal period beginning July 1, 1993, and ending June 30, 1995; and

WHEREAS, the projects contained in the capital improvement program are deemed necessary for the proper performance of the instructional, research, and service functions of the institutions; and

WHEREAS, section 262A.4 provides that the state board of regents, after authorization by a constitutional majority of each house of the general assembly and approval by the governor, may undertake and carry out at the institutions of higher learning under the jurisdiction of the board any project as defined in chapter 262A; and

WHEREAS, chapter 262A authorizes the state board of regents to borrow money and to issue and sell negotiable revenue bonds to pay all or any part of the cost of carrying out projects at any institution payable solely from and secured by an irrevocable pledge of a sufficient portion of the student fees and charges and institutional income received by the particular institution; and

WHEREAS, to further the educational objectives of the institutions, the state board of regents requests authorization to undertake and carry out certain projects at this time and to finance their costs by borrowing money and issuing negotiable bonds under chapter 262A in a total amount not to exceed $16,380,000, the remaining cost of the projects to be financed by appropriations or by federal or other funds lawfully available; NOW THEREFORE,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES, THE SENATE CONCURRING, That the proposed five-year building program submitted by the state board of regents for each institution of higher learning under its jurisdiction is approved; and

BE IT FURTHER RESOLVED, That no commitment is implied or intended by approval to fund any portion of the proposed five-year building program submitted by the state board of regents beyond the portion that is financed and approved by the Seventy-fifth General Assembly, First Session, and the governor; and

BE IT FURTHER RESOLVED, That during the fiscal period which commences July 1, 1993, and which ends June 30, 1995, the maximum amount of bonds which the state board of regents expects to issue under chapter 262A, unless additional bonding is authorized, is $16,380,000, all or any part of which may be issued during the fiscal year ending June 30, 1994, and if all of that amount is not issued during that fiscal year, any remaining balance may be issued during the fiscal year ending June 30, 1995, and this plan of financing is approved; and

BE IT FURTHER RESOLVED, That the state board of regents is authorized to undertake, plan, construct, equip, and otherwise carry out the following projects at the institutions of higher learning under the jurisdiction of the board, and the general assembly authorizes the state board of regents to borrow money and to issue and sell negotiable revenue bonds in the manner provided in sections 262A.5 and 262A.6 in order to pay all or any part of the costs of carrying out the projects, and the cost of issuance of bonds, at any institution in a total amount not to exceed $16,380,000:

State University of Iowa		
Pharmacy building addition construction		
Cost of issuance of bonds		
.....	$	8,939,000
University of Northern Iowa		
Library addition construction		
Cost of issuance of bonds		
.....	$	7,441,000
Total	$	16,380,000

BE IT FURTHER RESOLVED, That if the amount of bonds issued under this Resolution exceeds the actual costs of projects approved in this Resolution, the amount of the difference shall be used to pay the principal and interest due on bonds issued under chapter 262A; and

BE IT FURTHER RESOLVED, That the state board of regents may capitalize the bond reserve fund with respect to the State University of Iowa and the University of Northern Iowa bonds authorized pursuant to this Resolution. However, this authorization for capitalization shall not authorize the state board of regents to increase the amount of bonds issued under this Resolution.

Approved May 20, 1993

CHAPTER 182

NULLIFICATION OF ADMINISTRATIVE RULE – EDUCATION
H.J.R. 19

A JOINT RESOLUTION to nullify an administrative rule of the department of education relating to a requirement for an instructional time audit and providing an effective date.

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

Section 1. 281 Iowa administrative code, rule 12.3, subrule 5, is nullified.

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

Effective April 13, 1993

CHAPTER 183

NULLIFICATION OF ADMINISTRATIVE RULE – NURSING
H.J.R. 17

A JOINT RESOLUTION to nullify an administrative rule of the board of nursing defining the term nurse and providing an effective date.

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

Section 1. 655 Iowa administrative code, rule 6.4, subrule 2, is nullified.

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

Effective April 23, 1993

CHAPTER 184

PROPOSED CONSTITUTIONAL AMENDMENT – USE OF FUNDS
FOR FISH AND WILDLIFE PROTECTION
First Time Passed H.J.R. 28

A JOINT RESOLUTION proposing an amendment to the Constitution of the State of Iowa to restrict the expenditure of state license fees received from hunting, fishing, and trapping, and other public or private funds appropriated, allocated, or received by the state for fish 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 WILDLIFE PROTECTION FUNDS. Sec. 9. All revenue derived from state license fees for hunting, fishing, and trapping, and all state funds appropriated for, and federal or private funds received by the state for, the regulation or advancement of hunting, fishing, or trapping, or the protection, propagation, restoration, management, or harvest of fish or wildlife, shall be used exclusively for the performance and administration of activities related to those purposes.

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 185

ETHANOL FUEL INDUSTRY

H.J.R. 5

A JOINT RESOLUTION to request that the President of the United States, the Office of Management and Budget, the Administrator of the United States Environmental Protection Agency, and the Congress of the United States support the ethanol fuel industry by ensuring the continued development of the renewable fuel.

WHEREAS, in 1990 the United States Congress enacted and the President of the United States signed into law Pub. L. No. 101-549, including major amendments to the federal Clean Air Act, 42 U.S.C. § 7401 et seq., which represents a landmark effort to protect this nation's atmosphere from contamination by hazardous pollutants in part caused by vehicle emissions; and

WHEREAS, the United States Environmental Protection Agency in implementing amendments to the federal Clean Air Act has conducted tests of oxygenates including organic and petroleum-based products for purposes of establishing standards for reformulating motor vehicle fuel used in nonattainment areas designated in the United States; and

WHEREAS, based on these tests, the United States Environmental Protection Agency has found that ethanol-blended motor vehicle fuel satisfies the requirements of the federal Clean Air Act; and

WHEREAS, this nation is dependent upon the consumption of rapidly depleting domestic oil reserves with the United States annually importing foreign petroleum products which have been valued at more than 25 percent of the nation's trade deficit; and

WHEREAS, the release of toxic materials from the combustion of fossil fuel in the United States causes the release of more than one billion, two hundred million metric tons of carbon which threatens stable climatic conditions in the world; and

WHEREAS, more than 40 percent of this nation's air pollution is caused by vehicles, emitting a variety of petroleum-based pollutants which endanger the public's health, including carcinogenic organic vapors, benzene and other aromatics, nitrogen oxides, particulate matter in the form of smoke and soot, carbon monoxide, and carbon dioxide; and

WHEREAS, the United States Congress in supporting the need to reduce this nation's dependence upon foreign oil, to provide additional markets for domestic corn and other grains, to protect the public health, and to preserve the nation's environment, has encouraged ethanol production and consumption; and

WHEREAS, motor vehicle fuel including a 10 percent blend of ethanol contains 3.5 percent oxygen which enhances octane levels and provides more oxygen for fuel combustion resulting in reduced levels of carbon monoxide, thus reducing threats from "greenhouse" warming; and

WHEREAS, ethanol produced in this nation reduces crude oil imports and dramatically increases farm income; and

WHEREAS, recent statements made by officials in the Office of Management and Budget indicate that the decision by the United States Environmental Protection Agency will be reversed, in opposition to established policies of the Congress of the United States supporting this nation's renewable fuel industry; NOW THEREFORE,

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

That the United States Environmental Protection Agency be permitted to carry out this nation's commitment to reduce dependence upon foreign oil, create additional markets for abundant grain supplies, protect the public health, and preserve the nation's environment, by faithfully carrying out the provisions of the federal Clean Air Act; and

BE IT FURTHER RESOLVED, That any new legislation taxing the production or consumption of energy include provisions which encourage the development of this nation's ethanol industry; and

BE IT FURTHER RESOLVED, That Iowa's congressional delegation, Senators Tom Harkin and Charles Grassley, and Representatives Neal Smith, Jim Leach, Jim Ross Lightfoot, Fred Grandy, and Jim Nussle, take the lead in providing advice and council to the President of the United States in order to support policies necessary to ensure the development of this nation's commitment to the production and consumption of ethanol-based fuel; and

BE IT FURTHER RESOLVED, That the United States Congress support legislative measures necessary in order to encourage the development of the ethanol production industry; and

BE IT FURTHER RESOLVED, That copies of this Resolution be sent by the Chief Clerk of the House to the Governor for approval; and

BE IT FURTHER RESOLVED, That upon approval by the Governor, copies of this Resolution be sent by the Governor to the President of the United States, the Director of the Office of Management and Budget, the Administrator of the United States Environmental Protection Agency, the President of the United States Senate, the Speaker of the United States House of Representatives, the Chairperson of the Committee of Agriculture, Nutrition, and Forestry of the United States Senate, the Chairperson of the Committee of Agriculture of the United States House of Representatives, and Iowa's congressional delegation.

Approved March 18, 1993

CHAPTER 186

STATE ANTHEM

H.J.R. 20

A JOINT RESOLUTION designating the "Largo" from Antonin Dvorak's "New World Symphony" as the official anthem for the State of Iowa for one year.

WHEREAS, Czech composer and musician Antonin Dvorak came to New York City from Europe in 1892 as the new Director of the National Conservatory of Music; and

WHEREAS, to escape the fractious noise and oppressive summer heat of a summer in New York City, Dvorak moved his wife and six children to the Czech community of Spillville, Iowa for the summer of 1893; and

WHEREAS, Iowa's prairie and the Turkey River provided Dvorak with idyllic conditions for his endeavors, and he achieved a great volume of impressive work during his stay in Iowa; and

WHEREAS, this year, 1993, marks the 100th anniversary of Dvorak's summer of creativity in Spillville, Iowa, NOW THEREFORE,

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

Section 1. The "Largo" from the "New World Symphony" by Antonin Dvorak shall officially, from July 1, 1993, to June 30, 1994, be designated as the state anthem of Iowa.

Sec. 2. The editor of the Iowa official register shall include an appropriate illustration of the "Largo," accompanied by suitable text, in the section devoted to the state flower, state bird, state rock, and state tree while the "Largo" is the state anthem.

Sec. 3. This Joint Resolution, being deemed of immediate importance, takes effect upon enactment.

Approved May 4, 1993

CHAPTER 187

COMMONWEALTH STATUS FOR TERRITORY OF GUAM

S.J.R. 3

A JOINT RESOLUTION supporting the granting of commonwealth status to the Territory of Guam.

WHEREAS, the United States is recognized worldwide for its pursuit of global democracy and its support of the right of people everywhere to seek self-determination, but especially for those people under its jurisdiction; and

WHEREAS, the General Assembly of the State of Iowa, as a member government of the United States of America, also supports the right of each state and territory under the United States to seek the political standing best suited to its people; and

WHEREAS, the Territory of Guam is attempting to establish a just political relationship between the people of Guam and the United States; and

WHEREAS, Guam seeks to provide for the rights of the people of Guam in areas of vital interest to them, including land use, immigration, taxation, and the applicability of federal laws constraining their development; and

WHEREAS, the Guam Territorial Legislature has obtained introduction of the Commonwealth Act of Guam in the United States Congress which would grant commonwealth status to the Territory; and

WHEREAS, the General Assembly encourages the United States government to allow the people of Guam to determine their own political, social, and economic future; and

WHEREAS, support for the Guam Commonwealth effort has been evidenced by policy statements and resolutions of the National Governors Association, the Western Legislative Conference of the Council of State Governments, the National Conference of State Legislatures, and the United States Conference of Mayors; NOW THEREFORE,

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

That the General Assembly of the State of Iowa supports the efforts of the people of Guam to achieve commonwealth status and a just and permanent relationship with the United States.

BE IT FURTHER RESOLVED, That copies of this resolution be transmitted to the Honorable Bill Clinton, President of the United States; the Honorable Albert Gore, Vice President of the United States and President of the United States Senate; the Honorable Thomas Foley, Speaker of the United States House of Representatives; the Honorable George Mitchell, Majority Leader of the United States Senate; the Honorable Joseph F. Ada, Governor of Guam; the Honorable Joe T. San Agustin, Speaker of the Guam Legislature; and Iowa's congressional delegation.

CHAPTER 188

INSTRUCTIONS TO JURY

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 18(5)(f) which is attached as Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), this change is to take effect July 1, 1993.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
December 29, 1992

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the seventh day of February, 1993, 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 18. Trial.

5. The jury upon trial.

f. Instructions. ~~Upon the conclusion of the arguments, the court shall charge the jury in writing, without oral explanation or qualification, stating the law of the case.~~ The rules relating to the instructions of juries in civil cases shall ~~be applicable~~ apply to the trial of criminal ~~prosecutions~~ cases. ~~After hearing the charge, the jury shall retire for deliberation.~~

ANALYSIS OF TABLES

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