State of Iowa

1994

ACTS AND JOINT RESOLUTIONS

(Session Laws)

Enacted At The

1994 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-EIGHTH YEAR OF THE STATE

REGULAR SESSION BEGUN ON THE TENTH DAY OF JANUARY
AND ENDED ON THE TWENTIETH DAY OF APRIL, A.D. 1994

Published under the authority of Iowa Code section 2B.10
by the
Legislative Service Bureau
GENERAL ASSEMBLY OF IOWA
Des Moines

PREFACE

CERTIFICATION

We, Diane E. Bolender, Director, Legislative Service Bureau, and Loanne M. Dodge, Iowa Code Editor, certify that, to the best of our knowledge, the Acts and Resolution in this volume have been prepared from the original enrolled Acts and Resolution on file in the office of the Secretary of State; are correct copies of those Acts and Resolution; are published under the authority of the statutes of this state; and constitute the Acts and Resolution of the 1994 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 1995 IOWA CODE IS PUBLISHED. Changes will be shown in the Tables of Disposition of Acts in the 1995 Iowa Code.

Typographic style. The Acts and Resolution 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, 1994, 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. A dagger 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.

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

CONTENTS

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
Bret Mills, Assistant 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
Mary Jane Olney, Administrative Division Director	Polk
Daryl Frey, Laboratory Division Director	Polk
Ronald Rowland, Regulatory Division Director	Polk
James Gulliford, Soil Conservation Division Director	Polk
William H. Greiner, Agricultural Development Authority Director	Polk
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
Julie Pottorff, Deputy Attorney General	Polk
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, 75(1st)
Bartz, Merlin E. Grafton	Farmer/Laborer	10th—Cerro Gordo, Mitchell, *Worth*	74, 74X, 74XX, 75(1st)
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, 75(1st)
Bisignano, Tony Des Moines	Project Manager Polk County Board of Supervisors	34th—*Polk*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Borlaug, Allen Protivin	Farm Owner/ Insurance Agent	15th—*Chickasaw*, Floyd, Howard, Mitchell, Winneshiek	74, 74X, 74XX, 75(1st)
Boswell, Leonard L. Davis City	Farmer/Small Businessman	44th—Adams, *Decatur*, Page, Ringgold, Taylor, Union	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Buhr, Florence Des Moines		35th—*Polk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Connolly, Michael W. Dubuque	Education Administrator/ Legislator	18th—*Dubuque*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Deluhery, Patrick J. Davenport	Insurance Sales Representative/ College Teacher	22nd—*Scott*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Dieleman, William W. Sully	Self-employed	29th—*Jasper*, Mahaska, Marshall, Poweshiek	66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
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, 75(1st)
*Dvorsky, Robert E. Coralville	Job Placement Official	25th—*Johnson*, Linn	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Fink, Bill Carlisle	School Teacher	45th—Marion, *Warren*	75(1st)
Fraise, Eugene S. Fort Madison	Farmer/ Legislator	50th—Des Moines, *Lee*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
**Freeman, Mary Lou Storm Lake		5th—*Buena Vista*, Cherokee, Clay, O'Brien, Plymouth, Pocahontas	None
†Fuhrman, Linn Aurelia	Farmer	5th—*Buena Vista*, Cherokee, Clay, O'Brien, Plymouth, Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Gettings, Don E. Ottumwa	Retired-Deere & Co.	47th—Jefferson, Van Buren, *Wapello*	67(2nd), 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)

* Elected in Special Election February 22, 1994
**Elected in Special Election February 22, 1994
† Deceased January 23, 1994

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Giannetto, Randal J. ..... Marshalltown	Attorney.....	32nd—*Marshall*, Story.....	75(1st)
Gronstal, Michael E. ..... Council Bluffs	.....	42nd—*Pottawattamie*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Hedge, H. Kay ..... Fremont	Farmer	48th—Keokuk, *Mahaska*,..... Marion, Wapello, Washington	73, 74, 74X, 74XX, 75(1st)
Hester, Jack W..... Honey Creek	Retired Farmer/... Legislator	41st—Audubon, Harrison,... *Pottawattamie*, Shelby	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Horn, Wally E..... Cedar Rapids	Teacher/..... Education	27th—*Linn*	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Husak, Emil J. ..... Toledo	Farmer	30th—Benton, ... Black Hawk, Iowa, *Tama*	64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Jensen, John W..... Plainfield	Farmer	11th—Black Hawk,..... *Bremer*, Butler, Grundy	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Judge, Patty ..... Albia	Mediator.....	46th—Appanoose, Clarke,... Davis, Lucas, *Monroe*, Van Buren, Wayne	75(1st)
Kersten, James B..... Fort Dodge	Financial..... Investment Officer, First American State Bank	7th—Boone, Calhoun,..... Hamilton, *Webster*	74, 74X, 74XX, 75(1st)
Kibbie, John P..... Emmetsburg	Farmer	4th—Clay, Dickinson,..... Emmet, Kossuth, *Palo Alto*	59, 60, 60X, 61, 62, 73, 74, 74X, 74XX, 75(1st)
Kramer, Mary E..... West Des Moines	Vice President- ... Human Resources, Blue Cross & Blue Shield	37th—*Polk*	74, 74X, 74XX, 75(1st)
Lind, Jim ..... Waterloo	Service Station .... Owner/Operator	13th—*Black Hawk*	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Lloyd-Jones, Jean..... Iowa City	Legislator.....	23rd—*Johnson*.....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Maddox, O. Gene ..... Clive	Attorney.....	38th—Dallas, *Polk*	75(1st)
McKean, Andy ..... Anamosa	Lawyer	28th—*Jones*, Linn.....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
McLaren, Derryl..... Farragut	Farmer	43rd—Cass, *Fremont*, ... Mills, Montgomery, Pottawattamie	74, 74X, 74XX, 75(1st)
Murphy, Larry ..... Oelwein	Adjunct College ... Instructor, Upper Iowa University	14th—Black Hawk,..... Buchanan, Delaware, *Fayette*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
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, 75(1st)

Name and Residence	Occupation	Senatorial District	Former Legislative Service
Pate, Paul D. ..... Marion	President/CEO- ... PM Systems Corp.	26th—*Linn*	73, 74, 74X, 74XX, 75(1st)
Priebe, Berl E. ..... Algona	Farmer	8th—Hancock, Humboldt, ... *Kossuth*, Winnebago, Wright	63, 64, 65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
*Redfern, Donald ..... Cedar Falls	.....	12th—*Black Hawk*	None
Rensink, Wilmer..... Sioux Center	Farmer	3rd—Lyon, O'Brien, ... Osceola, *Sioux*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Rife, Jack ..... Durant	Farmer	20th—*Cedar*, Clinton,..... Jones, Scott	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Riordan, James R. ..... Waukee	Resource..... Development Director	39th—Adair, *Dallas*,..... Guthrie, Madison	71(2nd), 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Rittmer, Sheldon ..... De Witt	Farmer	19th—*Clinton*, Scott.....	74, 74X, 74XX, 75(1st)
Rosenberg, Ralph ..... Ames	Attorney.....	31st—*Story*	69(2nd), 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Sorensen, Albert G..... Boone	Owner/Operator ... Bed and Breakfast/ Consultant	40th—*Boone*, Carroll,..... Greene	74, 74X, 74XX, 75(1st)
Sturgeon, Al ..... Sioux City	Legislator/ ..... Lawyer	1st—*Woodbury*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Szymoniak, Elaine ..... Des Moines	Retired	36th—*Polk*	73, 74, 74X, 74XX, 75(1st)
Taylor, Ray ..... Steamboat Rock	Farm Business	9th—Franklin, Hamilton, ... *Hardin*, Wright	65, 66, 67, 67X, 68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Tinsman, Maggie ..... Davenport	Legislator.....	21st—*Scott*.....	73, 74, 74X, 74XX, 75(1st)
**Varn, Richard J..... Solon	Lawyer; ..... Information Policy Consultant	25th—*Johnson*, Linn	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Vilsack, Tom ..... Mt. Pleasant	Lawyer	49th—Des Moines, ... *Henry*, Lee, Washington	75(1st)
Welsh, Joe J..... Dubuque	Businessman	17th—Delaware, ... *Dubuque*, Jackson	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Zieman, Lyle E. ..... Postville	Retired Farmer....	16th—*Allamakee*, Clayton,.. Fayette, Winneshiek	75(1st)

* Elected in Special Election August 31, 1993
** Resigned February 2, 1994

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, 75(1st)
Baker, Thomas E..... Des Moines	Advisory College ..	71st—*Polk*	74, 74X, 74XX, 75(1st)
Beaman, Jack ..... Osceola	Self-employed	91st—Appanoose, *Clarke*,... Lucas, Wayne	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Beatty, Linda L..... Indianola	Homemaker	89th—*Warren*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Bell, Paul A. ..... Newton	Police Officer.....	57th—*Jasper*	75(1st)
Bernau, Bill ..... Ames	Legislator/ ..... Consultant	62nd—*Story*	74, 74X, 74XX, 75(1st)
Black, Dennis H..... Grinnell	Conservationist....	58th—*Jasper*, Mahaska,..... Marshall, Poweshiek	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Blodgett, Gary ..... Mason City	Retired ..... Orthodontist	19th—*Cerro Gordo*	75(1st)
Boddicker, Dan ..... Tipton	Engineering..... Technician	39th—*Cedar*, Clinton,..... Jones	75(1st)
Brammer, Philip E. ..... Cedar Rapids	Legislator/ ..... Salesman	53rd—*Linn*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Brand, William J..... Chelsea	Human Services ... Worker	60th—*Benton*, ... Black Hawk, Tama	73, 74, 74X, 74XX, 75(1st)
Branstad, Clifford O..... Thompson	Retired Farmer....	16th—Hancock, ... *Winnebago*, Wright	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Brauns, Barry ..... Conesville	Manager- ..... County Fair	47th—Johnson, Louisa, ... *Muscatine*	75(1st)
Brunkhorst, Bob ..... Waverly	Computer ..... Programmer	22nd—Black Hawk, ... *Bremer*	75(1st)
Burke, Gordon B..... Marshalltown	Lennox/Tool & .... Die Maker	64th—*Marshall*	74, 74X, 74XX, 75(1st)
Carpenter, Dorothy ..... West Des Moines	Legislator.....	74th—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Cataldo, Michael..... Des Moines	VP—Ia EPS..... Products, Inc.	68th—*Polk*	75(1st)
Churchill, Steven W..... Johnston	Fund-raising ..... Consultant	76th—Dallas, *Polk*	75(1st)
Cohoon, Dennis M..... Burlington	Teacher.....	100th—*Des Moines*.....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
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, 75(1st)
Corbett, Ron J..... Cedar Rapids	Public Relations,... CRST, Inc.	52nd—*Linn*.....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
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, 75(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
Dickinson, Rick Sabula	National Accounts Mgr.	34th—Dubuque, *Jackson*	74, 74X, 74XX, 75(1st)
Dinkla, Dwight L. Guthrie Center	Attorney	78th—Adair, *Guthrie*, Madison	75(1st)
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, 75(1st)
Drake, Jack Lewis	Farmer	81st—Audubon, *Pottawattamie*, Shelby	75(1st)
*Dvorsky, Robert E. Coralville	Job Placement Official	49th—*Johnson*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Eddie, Russell Storm Lake	Retired Farmer, Legislator, and Self-employed	10th—*Buena Vista*, Clay, Pocahontas	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Ertl, Joseph L. Dyersville	Owner-Scale Models	33rd—Delaware, *Dubuque*	75(1st)
Fallon, Ed Des Moines	Legislator	70th—*Polk*	75(1st)
Fogarty, Daniel P. Cylinder	Farmer	8th—Clay, Kossuth, *Palo Alto*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Garman, Teresa Ames	Farmer, Real Estate	63rd—Marshall, *Story*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Gill, Patrick F. Sioux City	Financial Planner	2nd—*Woodbury*	74, 74X, 74XX, 75(1st)
Gipp, Chuck Decorah	Dairy Farmer	31st—Allamakee, *Winneshiek*	74, 74X, 74XX, 75(1st)
Greig, John M. Estherville	Farmer	7th—Dickinson, *Emmet*, Palo Alto	75(1st)
Greiner, Sandra H. Keota	Farmer	96th—Keokuk, Mahaska, Wapello, *Washington*	75(1st)
Gries, Don Charter Oak	Retired School Administrator	12th—*Crawford*, Monona, Woodbury	75(1st)
Grubbs, Steven E. Davenport	Law Student	40th—*Scott*	74, 74X, 74XX, 75(1st)
Grundberg, Betty Des Moines	Property Renovation/ Management	73rd—*Polk*	75(1st)
Hahn, James F. Muscatine	Property Management/ Real Estate Salesman	48th—*Muscatine*, Scott	74, 74X, 74XX, 75(1st)
Halvorson, Rod Fort Dodge	Real Estate	13th—*Webster*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
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, 75(1st)

* Resigned February 2, 1994

Name and Residence	Occupation	Representative District	Former Legislative Service
Hammond, Johnie Ames	Consultant	61st—*Story*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Hansen, Steven D. Sioux City	Self-employed	1st—*Woodbury*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Hanson, Darrell R. Manchester	University Instructor	27th—Black Hawk, Buchanan, *Delaware*	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Hanson, Donald E. Waterloo	Educator	24th—*Black Hawk*	74, 74X, 74XX, 75(1st)
Harper, Patricia M. Waterloo	Retired Educator	26th—*Black Hawk*	72, 72X, 72XX, 73, 75(1st)
Haverland, Mark Polk City	Business Owner	65th—*Polk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Henderson, Mark Princeton	Construction	37th—Clinton, *Scott*	75(1st)
Hester, Joan L. Honey Creek	Retired Farmer	82nd—Harrison, *Pottawattamie*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Holveck, Jack Des Moines	Attorney	72nd—*Polk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Houser, Hubert M. Carson	Farmer	85th—Fremont, Mills, *Pottawattamie*	75(1st)
Hurley, Charles Fayette	Attorney	28th—Buchanan, *Fayette*	74, 74X, 74XX, 75(1st)
Iverson, Stewart, Jr. Dows	Farmer	17th—Franklin, Hamilton, Hardin, *Wright*	73(2nd), 74, 74X, 74XX, 75(1st)
Jochum, Pam Dubuque		35th—*Dubuque*	75(1st)
Kistler, Robert L. Fairfield	Legislator/ Tree Farmer	94th—*Jefferson*, Van Buren, Wapello	73, 74, 74X, 74XX, 75(1st)
Klemme, Ralph F. Le Mars	Farmer	4th—*Plymouth*, Woodbury	75(1st)
Koenigs, Deo A. Osage	Farmer/ Legislator	29th—Floyd, *Mitchell*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Kreiman, Keith A. Bloomfield	Attorney	92nd—Appanoose, *Davis*, Monroe, Van Buren	75(1st)
Larkin, Richard L. Fort Madison	Corrections Counselor	99th—Des Moines, *Lee*	75(1st)
Larson, Chuck Cedar Rapids	Univ. of Ia. College of Law Student	55th—*Linn*	75(1st)
Lundby, Mary A. Marion		51st—*Linn*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Martin, Mona Davenport	Property Management/ Legislator	43rd—*Scott*	75(1st)
May, Dennis Kensett	Farmer	20th—Cerro Gordo, Mitchell, *Worth*	72, 72X, 72XX, 73, 75(1st)
McCoy, Matt Des Moines	Sales	67th—*Polk*	75(1st)
McKinney, Wayne H., Jr. Waukee	Lawyer	77th—*Dallas*, Madison	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)

Name and Residence	Occupation	Representative District	Former Legislative Service
McNeal, Clark E. ..... Iowa Falls	Lawyer	18th—Franklin, *Hardin*	74, 74X, 74XX, 75(1st)
Mertz, Dolores ..... Ottosen	Farmer, Owner/ ... Operator	15th—Humboldt, ... *Kossuth*	73, 74, 74X, 74XX, 75(1st)
Metcalf, Janet S. ..... Des Moines	Legislator.....	75th—*Polk*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Meyer, James A. ..... Odebolt	Farmer/..... Agribusiness	11th—Ida, *Sac*, ... Woodbury	75(1st)
Millage, David..... Bettendorf	Attorney.....	41st—*Scott*.....	74, 74X, 74XX, 75(1st)
Miller, Tom H. ..... Cherokee	Journalist.....	9th—Buena Vista,..... *Cherokee*, O'Brien, Plymouth	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Moreland, Michael ..... Ottumwa	Attorney.....	93rd—*Wapello*.....	75(1st)
Mundie, Norman..... Fort Dodge	Farmer	14th—Boone, Calhoun,..... Hamilton, *Webster*	75(1st)
Murphy, Pat ..... Dubuque	Legislator.....	36th—*Dubuque*	73(2nd), 74, 74X, 74XX, 75(1st)
*Myers, Richard ..... Iowa City	Corporation ..... President, CEO	49th—*Johnson*.....	None
Nelson, Linda ..... Council Bluffs	Elementary ..... School Teacher	83rd—*Pottawattamie*.....	75(1st)
Neuhauser, Mary ..... Iowa City	Attorney.....	46th—*Johnson*.....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
O'Brien, Michael J..... Boone	Teacher.....	79th—*Boone*, Greene	75(1st)
Ollie, C. Arthur ..... Clinton	Teacher.....	38th—*Clinton*.....	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Osterberg, David ..... Mt. Vernon	Teacher/..... Researcher	50th—Johnson, *Linn*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Peterson, Michael K..... Carroll	Attorney.....	80th—*Carroll*, Greene	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Plasier, Lee ..... Sioux Center	Manager	5th—*Sioux*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Rafferty, Robert L. ..... Davenport	Attorney.....	42nd—*Scott*	74, 74X, 74XX, 75(1st)
Rants, Christopher C. ... Sioux City	Environmental .... Projects Coordinator for Metz Baking Company	3rd—*Woodbury*.....	75(1st)
Renaud, Dennis L. ..... Altoona	D.M. Fire Dept. & Barber Business	66th—*Polk*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Renken, Bob ..... Aplington	Farmer/..... Legislator	21st—Butler, *Grundy*.....	68(2nd), 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)

* Elected in Special Election February 22, 1994

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, 75(1st)
Running, Richard V. .... Cedar Rapids	Quality Control .... Programmer	54th—*Linn*	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Schrader, David ..... Monroe	Businessman	90th—*Marion*, Warren.....	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Shoultz, Don ..... Waterloo	Coordinator of..... Workforce Training	25th—*Black Hawk*	70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Siegrist, Brent ..... Council Bluffs	Educator.....	84th—*Pottawattamie*	71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Spenner, Gregory A..... Mt. Pleasant	Insurance Agent/.. Broadcaster/ Legislator	97th—Des Moines, ... *Henry*, Washington	73, 74, 74X, 74XX, 75(1st)
Tyrrell, Phil..... North English	Insurance	59th—Benton, *Iowa*	68, 69, 69X, 69XX, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Vande Hoef, Richard .... Harris	Farmer	6th—Lyon, O'Brien, ... *Osceola*, Sioux	69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Van Maanen, Harold G. . Pella	Farmer	95th—Mahaska, *Marion*.....	68, 69, 69X, 69XX, 70, 71, 72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Weidman, Dick ..... Griswold	Retired ..... State Trooper	86th—*Cass*, Montgomery,... Pottawattamie	74, 74X, 74XX, 75(1st)
Weigel, Keith W..... New Hampton	Certified ..... Financial Planner	30th—*Chickasaw*, ... Howard, Winneshiek	75(1st)
Welter, Jerry J..... Monticello	Farmer	56th—*Jones*, Linn.....	75(1st)
Wise, Philip L. ..... Keokuk	Teacher.....	98th—Henry, *Lee*	72, 72X, 72XX, 73, 74, 74X, 74XX, 75(1st)
Witt, William G..... Cedar Falls	Photojournalist	23rd—*Black Hawk*	75(1st)

JUDICIAL DEPARTMENT

JUSTICES OF THE SUPREME COURT

(Justices listed according to seniority)

Name	Office Address	Term Ending
David Harris	Jefferson	Dec. 31, 1998
Arthur A. McGiverin, C. J.	Des Moines and Ottumwa	Dec. 31, 1996
Jerry L. Larson	Harlan	Dec. 31, 1996
James H. Carter	Cedar Rapids	Dec. 31, 2000
Louis A. 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
Marsha K. Ternus	Des Moines	Dec. 31, 1994

JUDGES OF THE COURT OF APPEALS

(Judges listed according to seniority)

Allen L. Donielson, C. J.	Des Moines	Dec. 31, 1995
Maynard J. V. Hayden	Indianola	Dec. 31, 1996
Rosemary Shaw Sackett	Spencer	Dec. 31, 1996
Albert L. Habhab	Fort Dodge	Dec. 31, 1996
Mark S. Cady	Fort Dodge	Dec. 31, 1996
Terry L. Huitink	Ireton	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

150 First Avenue, NE
Suite 370
Cedar Rapids, Iowa 52401
(319) 365-4504

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

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, 1993

	Balance July 1, 1992	Total Receipts and Transfers	Total Available	Total Redemptions and Disbursements	Balance June 30, 1993
General Fund	$ 64,566,065	$ 5,076,942,157	$ 5,141,508,222	$ 4,998,877,479	$ 142,630,743
Special Revenue Fund	276,348,406	1,600,188,901	1,876,537,307	1,602,126,082	274,411,225
Capitol Project Fund	8,557,152	11,116,561	19,673,713	15,065,417	4,608,296
Debt Service Fund	7,270,176	12,782,278	20,052,454	13,724,080	6,328,374
Enterprise Fund	29,133,971	230,460,302	259,594,273	212,996,596	46,597,677
Internal Service Fund	15,692,708	137,124,720	152,817,428	137,701,362	15,116,066
Expendable Trust Fund	46,291,335	430,882,789	477,174,124	399,665,286	77,508,838
Nonexpendable Trust Fund	7,018,167	483,523	7,501,690	44,668	7,457,022
Pension Fund	5,696,065,397	770,121,273	6,466,186,670	271,200,575	6,194,986,095
Trust and Agency Fund	89,265,520	2,244,048,240	2,333,313,760	2,235,047,472	98,266,288
Totals	$ 6,240,208,897	$10,514,150,744	$ 16,754,359,641	$ 9,886,449,017	$ 6,867,910,624

Balance July 1, 1992	$ 6,240,208,897
Receipts and Transfers	10,514,150,744
Total Available	16,754,359,641
Redemptions and Disbursements	9,886,449,017
Balance June 30, 1993	$ 6,867,910,624

DEPARTMENT OF REVENUE AND FINANCE
June 1, 1994

ANALYSIS BY CHAPTERS

1994 REGULAR SESSION

For Conversion Tables of Senate and House Files and Joint Resolution to chapters of the 1994 Acts, see page 804

CH.	FILE		TITLE
1050	HF	2284	Clerks of court – probate scheduling orders
1051	HF	2313	Administration of drainage districts
1052	HF	2321	Leases – uniform commercial code
1053	HF	2342	Reinstatement period for certain administratively dissolved corporations
1054	HF	2353	Human immunodeficiency virus epidemiological studies
1055	HF	2401	Recording of instruments in county recorder's office
1056	SF	216	City utility and enterprise services – rates and charges
1057	SF	2044	Asbestos removal permits
1058	SF	2153	Distribution of earnings by cooperative associations
1059	SF	2221	Water treatment operator certification fees
1060	HF	2018	School bus transportation requirements
1061	HF	2169	Smooth high-tensile wire fences
1062	HF	2192	Bingo and other games
1063	SF	2224	Allotments for foreign trade offices
1064	SF	2244	Workers' compensation mediation – confidentiality
1065	SF	2245	Workers' compensation – miscellaneous provisions
1066	SF	2261	Employment services – workers' compensation and unemployment compensation
1067	HF	2118	Underground storage tank lender liability
1068	HF	2145	Public health – miscellaneous provisions
1069	HF	2153	Eluding a law enforcement vehicle
1070	HF	2197	Investment of funds paid to district court clerks
1071	HF	2218	City civil service
1072	HF	2314	Insurance fraud
1073	HF	2343	Assessments for connection to city sewer or water utilities
1074	SF	413	Collection and disposition of court fees, fines, and surcharges
1075	HF	2116	City emergency medical services districts
1076	HF	2403	Targeted businesses
1077	HF	582	Screening and assessment for nursing facility placement
1078	HF	2070	State fire marshal
1079	HF	2241	Placement of certain persons at Iowa medical and classification center
1080	HF	2358	Federal highway moneys to governor's traffic safety bureau
1081	HF	2392	Coalition to study law enforcement training
1082	SF	2009	Child abuse investigations
1083	SF	2087	Employment under school district sharing agreements
1084	SF	2199	College education financing
1085	SF	2205	Regulated toxics in packaging
1086	SF	2016	Grain dealer licenses
1087	SF	2080	Agricultural and other motor vehicles – miscellaneous provisions
1088	SF	2201	Funding of gifted and talented programs
1089	SF	2231	Area education agency property transactions
1090	SF	2232	Registration and use of marks
1091	SF	2236	Education – miscellaneous technical and other provisions
1092	SF	2242	Ethics in government – miscellaneous provisions
1093	SF	2265	Harassment – stalking – no-contact orders
1094	HF	403	Unclaimed dry cleaning
1095	HF	545	Motor carrier certificates and permits
1096	HF	2133	Computerized criminal intelligence data
1097	HF	2230	Real property raffle
1098	HF	2309	Contact lenses and spectacle lenses
1099	HF	2325	Presentence investigations
1100	HF	2375	Racing and gaming – miscellaneous provisions
1101	HF	2407	Collection of child support
1102	HF	181	Driver education and motorcycle rider education

1994 Regular Session
Of The
Seventy-Fifth General Assembly
Of The
State Of Iowa

CHAPTER 1001
SOUTH AFRICA-RELATED DEPOSITS AND INVESTMENTS
S.F. 2013

AN ACT repealing restrictions on South Africa-related deposits and investments, and providing an immediate effective date.

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

Section 1. Section 12.8, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The treasurer of state shall invest or deposit, ~~subject to chapter 12A and~~ as provided by law, any of the public funds not currently needed for operating expenses and shall do so upon receipt of monthly notice from the director of revenue and finance of the amount not so needed. In the event of loss on redemption or sale of securities invested as prescribed by law, and if the transaction is reported to the executive council, neither the treasurer nor director of revenue and finance is personally liable but the loss shall be charged against the funds which would have received the profits or interest of the investment and there is appropriated from the funds the amount so required.

Sec. 2. Section 97B.5, Code 1993, is amended to read as follows:

97B.5 STAFF.

Subject to other provisions of this chapter, the department may employ personnel as necessary for the administration of the system, including but not limited to a chief investment officer and a chief benefits officer. The maximum number of full-time equivalent employees specified by the general assembly for the department for administration of the system for a fiscal year shall not be reduced by any authority other than the general assembly. The staff shall be appointed pursuant to chapter 19A. The department shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for an elective public office. The department may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter, and chapter 97C, ~~and chapter 12A~~. The department may execute contracts with investment advisors, consultants, and managers outside state government in the administration of this chapter ~~and chapter 12A~~. The department may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

Sec. 3. Section 97B.7, subsection 2, paragraph b, unnumbered paragraph 1, Code 1993, is amended to read as follows:

To invest, ~~subject to chapter 12A,~~ the portion of the retirement fund which in the judgment of the department is not needed for current payment of benefits under this chapter. The department shall execute the disposition and investment of moneys in the retirement fund in accordance with the investment policy and goal statement established by the investment board. In the investment of the fund, the department and investment board shall exercise the judgment

and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for the purpose of speculation, but with regard to the permanent disposition of the funds, considering the probable income, as well as the probable safety, of their capital. Within the limitations of the standard prescribed in this section, the treasurer of state, the department, and the board may acquire and retain every kind of property and every kind of investment which persons of prudence, discretion, and intelligence acquire or retain for their own account.

Sec. 4. Section 262.14, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The board may invest funds belonging to the institutions, subject to ~~chapter 12A and~~ the following regulations:

Sec. 5. Chapter 12A, Code 1993, is repealed.

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

Approved February 1, 1994

CHAPTER 1002

REGULATION OF FERTILIZERS, SOIL CONDITIONERS, AND PESTICIDES

S.F. 94

AN ACT relating to fertilizers or soil conditioners and pesticides by prohibiting regulations by local governmental entities.

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

Section 1. NEW SECTION. 200.22 LOCAL LEGISLATION – PROHIBITION.

1. As used in this section:

a. "Local governmental entity" means any political subdivision, or any state authority which is not the general assembly or under the direction of a principal central department as enumerated in section 7E.5, including a city as defined in section 362.2, a county as provided in chapter 359, or any special purpose district.

b. "Local legislation" means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

2. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a fertilizer or soil conditioner. A local governmental entity shall not adopt or continue in effect local legislation relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a fertilizer or soil conditioner, regardless of whether a statute or rule adopted by the department applies to preempt the local legislation. Local legislation in violation of this section is void and unenforceable.

3. This section does not apply to local legislation of general applicability to commercial activity.

Sec. 2. NEW SECTION. 206.34 LOCAL LEGISLATION – PROHIBITION.

1. As used in this section:

a. "Local governmental entity" means any political subdivision, or any state authority which is not the general assembly or under the direction of a principal central department as enumerated in section 7E.5, including a city as defined in section 362.2, a county as provided in chapter 359, or any special purpose district.

b. "Local legislation" means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a local governmental entity.

2. The provisions of this chapter and rules adopted by the department pursuant to this chapter shall preempt local legislation adopted by a local governmental entity relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a pesticide. A local governmental entity shall not adopt or continue in effect local legislation relating to the use, sale, distribution, storage, transportation, disposal, formulation, labeling, registration, or manufacture of a pesticide, regardless of whether a statute or rule adopted by the department applies to preempt the local legislation. Local legislation in violation of this section is void and unenforceable.

3. This section does not apply to local legislation of general applicability to commercial activity.

Approved February 1, 1994

CHAPTER 1003

SCHOOL FINANCE – STATE PERCENT OF GROWTH

S.F. 2041

AN ACT establishing the state percent of growth for the school budget year beginning July 1, 1994, 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, 1994, for the state school foundation program a state percent of growth equal to two and eighty-five hundredths percent.

Sec. 2. 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, 1994.

Approved February 10, 1994

CHAPTER 1004

COMPENSATION OF DEPUTY COUNTY SHERIFFS

S.F. 218

AN ACT relating to the compensation of deputy county sheriffs.

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

Section 1. Section 331.904, subsection 2, Code 1993, is amended to read as follows:

2. Each deputy sheriff shall receive an annual base salary as determined by the board. Upon certification by the sheriff, the board shall review, and may modify, the annual base salary of each deputy before certifying it to the auditor. The annual base salary of a first or second deputy sheriff shall not exceed eighty-five percent of the annual base salary of the sheriff. The

annual base salary of any other deputy sheriff shall not exceed the annual base salary of the first or second deputy sheriff except that in counties over two hundred fifty thousand population, the annual base salary of any additional deputies shall not exceed seventy-five percent of the annual base salary of the sheriff. ~~The total annual compensation including the annual base salary, overtime pay, longevity pay, shift differential pay, or other forms of supplemental pay and fringe benefits received by a deputy sheriff shall be less than the total annual compensation including fringe benefits received by the sheriff.~~ As used in this subsection, "base salary" means the basic compensation excluding overtime pay, longevity pay, shift differential pay, or other supplemental pay and fringe benefits.

Approved February 11, 1994

CHAPTER 1005

HUMAN SERVICES – FAMILY INVESTMENT PROGRAM – EMERGENCY SOCIAL SERVICES

S.F. 2034

AN ACT relating to department of human services provisions involving the family investment program and appropriating federal flood relief supplemental social services block grant funds and providing an effective date.

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

Section 1. WELFARE REFORM WAIVER MODIFICATION.

1. The department of human services shall submit a waiver or waiver modification request to the United States department of health and human services as necessary to revise a provision of the federal waiver granted pursuant to the request submitted to the federal government in accordance with 1993 Iowa Acts, chapter 97, section 3, subsection 1, paragraph "b". The request shall be to revise the provision involving the fifty percent earned income work incentive deduction used by the department. Under the revision, the department would allow the work incentive deduction only when calculating the amount of a family investment program grant and when determining continuing eligibility for the program. When used to determine continuing eligibility, the deduction would only be applied if countable income, after applicable deductions other than the work incentive deduction are subtracted, is below the family investment program standard of need in the current month or was below the standard of need in a month during a period of continuous eligibility for the family investment program as defined in administrative rules.

2. It is the intent of the general assembly that implementation of the provisions of subsection 1 shall limit the application of the earned income work incentive deduction so that the deduction does not apply to certain family investment program-related medical assistance eligibility groups in which the income limits used for eligibility are greater than income limits used for the family investment program. It is further the intent of the general assembly that the implementation of the provisions of subsection 1 shall not substantially affect eligibility for the family investment program.

3. The department shall implement the provisions of this section on the first day of the month following federal approval of the provisions or March 1, 1994, whichever date is later.

4. The department may adopt emergency rules to implement the provisions of this section; however, the department shall implement the provisions of this section on the date required pursuant to subsection 3.

Sec. 2. EMERGENCY SOCIAL SERVICES – FEDERAL SUPPLEMENTAL BLOCK GRANT FUNDS. Federal flood relief supplemental social services block grant funds available for emergency social services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, are appropriated to the department of human services. The funds may be used by the department in accordance with all applicable special federal conditions to provide emergency social services and to make grants to agencies, organizations, and other government entities for provision of emergency social services for flood relief. The department shall coordinate expenditure of the funds with other relief efforts. The department may adopt emergency administrative rules to define eligibility, services to be provided, and grantees, and to establish contracting and reporting requirements.

Sec. 3. EMERGENCY RULES. The department of human services may adopt emergency 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 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. 4. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved February 7, 1994

CHAPTER 1006

EXTRAORDINARY DIVIDENDS OF CERTAIN INSURERS

H.F. 2013

AN ACT relating to the definition of an extraordinary dividend or distribution for purposes applied to domestic insurance companies which are not life insurance companies, and providing an effective date.

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

Section 1. Section 521A.5, subsection 3, paragraph b, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

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.

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

Approved February 15, 1994

CHAPTER 1007

COUNTY COMMISSIONS OF VETERAN AFFAIRS

H.F. 43

AN ACT providing for an increase in the membership of county commissions of veteran affairs.

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

Section 1. Section 35B.3, Code 1993, is amended to read as follows:

35B.3 COUNTY COMMISSION OF VETERAN AFFAIRS.

The county commission of veteran affairs shall consist of either three or five persons, as determined by the board of supervisors, all of whom shall be honorably discharged persons who served in the military or naval forces of the United States in any war, including World War I at any time between April 6, 1917, and November 11, 1918, both dates inclusive; World War II at any time between December 7, 1941, and December 31, 1946, both dates inclusive; the Korean Conflict at any time between June 25, 1950, and January 31, 1955, both dates inclusive; the Vietnam Conflict at any time between December 22, 1961, and May 7, 1975, both dates inclusive; and the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, both dates inclusive. However, if congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990. If possible, each member of the commission shall be a veteran of a different war or conflict, so as to divide membership among the persons who served in World War I, World War II, the Korean Conflict, the Vietnam Conflict, and the Persian Gulf Conflict; however, this qualification does not preclude membership to a veteran who served in more than one of the wars or conflicts.

Sec. 2. Section 35B.4, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

35B.4 APPOINTMENT — VACANCIES.

Members of the commission of veteran affairs shall be appointed by the board of supervisors to staggered three-year terms at the regular meeting in June. However, a member shall serve until a successor has been appointed and qualifies. The board may remove an appointee at any time for neglect of duty or maladministration. A vacancy on the commission shall be filled for the unexpired portion of the regular term in the same manner as regular appointments are made.

If the board of supervisors increases the commission of veteran affairs membership to five members, the initial terms of the two new members shall be two and three years respectively. However, the new members shall serve until their successors are appointed and qualify.

Approved February 17, 1994

CHAPTER 1008

QUALITY JOBS ENTERPRISE ZONES — NEW JOBS AND INCOME PROGRAM

H.F. 2180

AN ACT relating to the establishment of quality jobs enterprise zones, and establishing a new jobs and income program, providing economic development assistance to businesses locating in quality jobs enterprise zones, providing a penalty, and providing effective dates.

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

Section 1. DECLARATION OF POLICY. The general assembly finds and declares that the accelerated use of direct development incentives by the state to attract economic investment is symptomatic of the continuing slow rate of growth of the nation's economy. Iowa finds itself pressured to take whatever steps are necessary to support job creation that otherwise might occur unaided under more healthy economic conditions.

The general assembly also finds and declares that the current economic climate also affects the way the business community behaves when making investment decisions. To minimize new investment in plant and equipment, businesses readily take advantage of available subsidies in the form of development incentives.

The general assembly further finds that the public and private sectors should undertake cooperative efforts that result in improvements to the general economic climate rather than focus on subsidies for individual projects or businesses. These efforts will require a behavioral change by both the state and business, balancing short-term self-interest with the long-term common good.

The general assembly declares that this change should not result from the threat of punitive measures or federal intervention. The state and business leaders should operate in accordance with the following principles because they represent good public policy; in the long run, adherence to these principles will achieve the desired outcomes in terms of new jobs and higher income in all states and sustained profitability for businesses that invest and operate in these jurisdictions.

The general assembly finds and declares that the following principles of mutual cooperation should govern state-business development relations:

1. Partnership between state government and business. The relationship between state government and business should be a true partnership. Both state government and business have certain responsibilities and anticipated benefits. The state and the business community should maintain an ongoing dialogue for the purpose of developing sound public policy and programs. The state should implement policy processes that are nonthreatening to the business community and the public.

2. State competition. The state will always be in competition with other states for business investments. However, this competition should not be characterized by how much direct assistance the state can provide to individual businesses. Rather the competition should focus on how the state attempts to provide a business climate in which existing businesses can operate profitably and expand and new businesses can be established and survive. The competition should be judged on factors such as improvements in education, transportation, and telecommunication; stable fiscal conditions; tax policies; business regulation; and the provision of quality public services.

3. Subsidies. The state will continue to provide subsidies to businesses. However, the provision of subsidies should adhere to the following criteria:

a. Public resources should be used to encourage and foster development that otherwise would not occur, not merely to influence the location of private investment.

b. Public subsidies should benefit and be available to all businesses, large and small, new and existing, of domestic or foreign ownership, based on individual state development objectives, identified criteria, and a calculated rate of return.

c. Public subsidies should be in the form of investments in people, resulting in a better educated and skilled workforce, and in communities, by developing the physical and social infrastructures that are prerequisites of healthy economic development. Although such investments may be tied to the location or expansion of an individual business, the improvements in the workforce and community should not be wholly dependent on the fortunes of one business and should be viewed as assets for other businesses that locate in the community.

d. To the extent possible, programs that support mutual development objectives should be joint ventures between government and business.

e. The business community has an obligation to deliver the promised benefits in return for state development subsidies. The state owes it to its citizens to ensure that all development agreements include provisions for recouping subsidies when businesses fail to meet this obligation.

f. Using subsidies to encourage investment in distressed areas of the state to increase employment opportunities that bring low-income Iowans into the economic mainstream is a legitimate development objective.

Sec. 2. Section 15.308, subsection 2, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. Establish a new jobs and income program.

Sec. 3. NEW SECTION. 15.325 NEGOTIATIONS — STATE AND LOCAL OFFICIALS — RESTRICTIONS.

A state or local government official acting in an official capacity shall not offer to a business economic development benefits unless those benefits are authorized under the law of this state in effect at the time of the negotiations or those benefits have been enacted, but not yet taken effect.

Sec. 4. NEW SECTION. 15.326 SHORT TITLE.

This part shall be known and may be cited as the "New Jobs and Income Act."

Sec. 5. NEW SECTION. 15.327 DEFINITIONS.

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

1. "Community" means a city, county, or entity established pursuant to chapter 28E that is a certified participant under section 15.308 or has established a comprehensive plan approved by the department.

2. "Department" means the Iowa department of economic development.

3. "Director" means the director of the department or the director's designee.

4. "Eligible business" means a business meeting the conditions of section 15.329.

5. "Program" means the new jobs and income program.

Sec. 6. NEW SECTION. 15.329 ELIGIBLE BUSINESS.

1. To be eligible to receive benefits under this part, a business shall, individually or as part of a group of businesses, meet all of the following requirements:

a. The community has approved by ordinance or resolution the start up, location, or expansion of the business for the purpose of receiving the benefits of this part.

b. The business has not closed or substantially reduced its operation in one area of the state and relocated substantially the same operation in the community. This subsection does not prohibit a business from expanding its operation in the community if existing operations of a similar nature in the state are not closed or substantially reduced.

c. Provide and pay at least eighty percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facility in which the new investment occurred.

d. The business shall agree to pay a median wage for new full-time hourly nonmanagement production jobs of at least eleven dollars per hour indexed to 1993 dollars based on the gross national product implicit price deflator published by the bureau of economic analysis of the United States department of commerce or one hundred thirty percent of the average wage in the county in which the community is located, whichever is higher.

e. The business will make a capital investment of at least ten million dollars indexed to 1993 dollars based on the gross national product implicit price deflator published by the bureau of economic analysis of the United States department of commerce. If the business is occupying a vacant building suitable for industrial use, the fair market value of the building shall be counted toward the capital investment threshold.

f. The business shall agree to create at least fifty or the group of businesses at least seventy-five full-time positions at a facility located in Iowa or expanded under the program for a specified period which will be negotiated with the department and the community, but which shall be at least five years.

2. In addition to the requirements of subsection 1, a business or group of businesses shall do at least three of the following in order to be eligible for incentives under the program:

a. Offer a pension or profit sharing plan to full-time employees.

b. Produce or manufacture high value-added goods or services or be in one of the following industries:

(1) Value-added agricultural products.

(2) Insurance and financial services.

(3) Plastics.

(4) Metals.

(5) Printing paper or packaging products.

(6) Drugs and pharmaceuticals.

(7) Software development.

(8) Instruments and measuring devices and medical instruments.

(9) Recycling and waste management.

(10) Telecommunications.

Retail business shall not be eligible for benefits under this part.

c. The business makes day care services available to its employees.

d. Invest annually no less than one percent of pretax profits from the facility located to Iowa or expanded under the program in research and development in Iowa.

e. Invest annually no less than one percent of pretax profits from the facility located to Iowa or expanded under the program in worker training and skills enhancement.

f. Have an active productivity and safety improvement program involving management and worker participation and cooperation with benchmarks for gauging compliance.

g. Occupy an existing facility at least one of the buildings of which shall be vacant and shall contain at least twenty thousand square feet.

3. Any business located in a quality jobs enterprise zone is ineligible to receive the economic development incentives under the program.

4. If the department finds that a business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the business shall not qualify for economic development assistance under this part, unless the department finds that the violations did not seriously affect public health or safety, or the environment, or if it did that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether the business is disqualified for economic development assistance under this part, the department shall be exempt from chapter 17A.

5. The department shall also consider a variety of factors, including but not limited to the following in determining the eligibility of a business to participate in the program:

a. The quality of the jobs to be created. In rating the quality of the jobs the department shall place greater emphasis on those jobs that have a higher wage scale, have a lower turnover rate, are full-time or career-type positions, provide comprehensive health benefits, or have other related factors which could be considered to be higher in quality, than to other jobs. Businesses that have wage scales substantially below that of existing Iowa businesses in that area should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.

b. The impact of the proposed project on other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for assistance, jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created.

c. The impact to the state of the proposed project. In measuring the economic impact the department shall place greater emphasis on projects which have greater consistency with the state strategic plan than other projects. Greater consistency may include any or all of the following:

(1) A business with a greater percentage of sales out-of-state or of import substitution.

(2) A business with a higher proportion of in-state suppliers.

(3) A project which would provide greater diversification of the state economy.

(4) A business with fewer in-state competitors.

(5) A potential for future job growth.

(6) A project which is not a retail operation.

d. If a business has, within three years of application for assistance, acquired or merged with an Iowa corporation or company, whether the business has made a good faith effort to hire the workers of the acquired or merged company.

e. Whether a business provides for a preference for hiring residents of the state or of the economic development area, except for out-of-state employees offered a transfer to Iowa or to the economic development area.

f. Whether all known required environmental permits have been issued and regulations met before moneys are released.

Sec. 7. NEW SECTION. 15.330 AGREEMENT — NONCOMPLIANCE — PENALTIES.

A business or group of businesses shall enter into an agreement with the department specifying the requirements which must be met to satisfy the criteria of section 15.329. The department shall consult with the community during negotiations relating to the agreement. The agreement shall contain the following provisions:

1. If the business or group of businesses has not met more than ninety percent of the job creation requirement in section 15.329, subsection 1, paragraph "f", it shall pay a percentage of the incentive received under section 15.334, or if the business or group of businesses does not receive the incentive under section 15.334, then under section 15.333 as follows:

a. If the business or group of businesses has met fifty percent or less of the requirement, the business or group of businesses shall pay the same percentage in benefits as the business or group of businesses failed to create in jobs.

b. If the business or group of businesses has met more than fifty percent but not more than seventy-five percent of the requirement, the business or group of businesses shall pay one-half of the percentage in benefits as the business or group of businesses failed to create in jobs.

c. If the business or group of businesses has met more than seventy-five percent but not more than ninety percent of the requirement, the business or group of businesses shall pay one quarter of the percentage in benefits as the business or group of businesses failed to create in jobs.

2. If a business or group of businesses does not meet the wage requirement of section 15.329, subsection 1, or any of the three criteria selected by the business or group of businesses under section 15.329, subsection 2, in any one year, it must meet that requirement in the following year or forfeit the incentives for that year.

The department shall adopt rules for repayment of incentives by the business or group of businesses if the business or group of businesses has not met any of the requirements of this part.

Sec. 8. NEW SECTION. 15.331 NEW JOBS CREDIT FROM WITHHOLDING.

An eligible business may enter into an agreement with the department of revenue and finance and a community college, for a supplemental new jobs credit from withholding from jobs created under the program. The agreement shall be for program services for an additional job training project, as defined in chapter 260E. The agreement shall provide for the following:

1. That the project shall be administered in the same manner as a project under chapter 260E and that a supplemental new jobs credit from withholding in an amount equal to one and one-half percent of the gross wages paid by the eligible business pursuant to section 422.16 is authorized to fund the program services for the additional project.

2. That the supplemental new jobs credit from withholding shall be collected, accounted for, and may be pledged by the community college in the same manner as described in section 260E.5.

3. That the auditor of state shall perform an annual audit regarding how the training funds are being used.

To provide funds for the payment of the costs of the additional project, a community college may borrow money, issue and sell certificates, and secure the payment of the certificates in the same manner as described in section 260E.6, including but not limited to, providing the assessment of an annual levy as described in section 260E.6, subsection 4. The program and credit authorized by this section is in addition to, and not in lieu of, the program and credit authorized in chapter 260E.

Sec. 9. NEW SECTION. 15.332 VALUE-ADDED PROPERTY TAX EXEMPTION.

1. The community may exempt from taxation all or a portion of the actual value added by improvements to real property directly related to new jobs created by the location or expansion of an eligible business under the program and used in the operations of the eligible business. The exemption may be allowed for a period not to exceed twenty years beginning the year the improvements are first assessed for taxation.

2. For purposes of this section, "improvements" include rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located.

Sec. 10. NEW SECTION. 15.333 INVESTMENT TAX CREDIT.

An eligible business may claim a corporate tax credit up to a maximum of ten percent of the new investment which is directly related to new jobs created by the location or expansion of an eligible business under the program. Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever occurs earlier. If the business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "new investment directly related to new jobs created by the location or expansion of an eligible business under the program" means the cost of machinery and equipment, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", purchased for use in the operation of the eligible business, the purchase price of which has been depreciated in accordance with generally accepted accounting principles, and the cost of improvements made to real property which is used in the operation of the eligible business and which receives a partial property tax exemption for the actual value added under section 15.332.

Sec. 11. NEW SECTION. 15.334 EXEMPTION FROM TAXATION FOR MACHINERY, EQUIPMENT, AND COMPUTERS.

An eligible business may claim as exempt from taxation all or a portion of the value of property, directly related to new jobs created by the location or expansion of an eligible business under the program, defined in section 427A.1, subsection 1, paragraphs "e" and "j", used by the eligible business. In order to be eligible for this exemption, the property shall be acquired or initially leased by the eligible business or relocated by the eligible business to the facility from a facility outside the state of Iowa. The duration of the exemption shall not exceed twenty years.

Sec. 12. NEW SECTION. 15.335 RESEARCH ACTIVITIES CREDIT.

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. 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. If the eligible business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, 1994.

A credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever comes first.

Sec. 13. NEW SECTION. 15.336 OTHER INCENTIVES.

An eligible business may receive other applicable federal, state, and local incentives and credits in addition to those provided in this part. However, a business which participates in the program under this part shall not receive any funds from the community economic development account under the community economic betterment program.

Sec. 14. Section 15A.1, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Economic development is a public purpose for which the state, a city, or a county may provide grants, loans, guarantees, tax incentives, and other financial assistance to or for the benefit of private persons.

Sec. 15. Section 15A.1, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Before public funds are used for grants, loans, tax incentives, or other financial assistance to private persons or on behalf of private persons for economic development, the governing body of the state, city, county, or other public body dispensing those funds or the governing body's designee, shall determine that a public purpose will reasonably be accomplished by the dispensing or use of those funds. In determining whether the funds should be dispensed, the governing body or designee of the governing body shall consider any or all of the following factors:

Sec. 16. Section 15A.2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If a member of the governing body of a city or county or an employee of a state, city, or county board, agency, commission, or other governmental entity of the state, city, or county has an interest, either direct or indirect, in a private person for which grants, loans, guarantees, tax incentives, or other financial assistance may be provided by the governing board or governmental entity, the interest shall be disclosed to that governing body or governmental entity in writing. The member or employee having the interest shall not participate in the decision-making process with regard to the providing of such financial assistance to the private person.

Sec. 17. NEW SECTION. 15A.9 QUALITY JOBS ENTERPRISE ZONE – STATE ASSISTANCE.

1. FINDINGS – ZONE DESIGNATION.

a. The general assembly finds and declares that the designation of a quality jobs enterprise zone or zones and the provision of economic development assistance within the zone or zones are necessary to diversify the Iowa economy, enhance opportunities for Iowans to obtain

quality industrial jobs, and provide significant economic benefits to the state through the expansion of Iowa's economy. Establishment of the quality jobs enterprise zone or zones and the economic development assistance provided by the state or a local community will be for the well-being and benefit of the residents of the state and will be for a public purpose.

b. In order to assist a community or communities located within the state to secure new industrial manufacturing jobs, the state of Iowa makes economic development assistance available within the zone or zones, and the department of economic development shall designate a site or sites, which shall not be larger than two thousand five hundred acres, within thirty days of the effective date of this Act, as a quality jobs enterprise zone or zones for the purpose of attracting a primary business and supporting businesses to locate facilities within the state.

The primary business or a supporting business shall not be prohibited from participating in or receiving other economic development programs or services or electing to utilize other tax provisions to the extent authorized elsewhere by law.

2. DEFINITIONS. As used in this section:

a. "Contractor or subcontractor" means a person who contracts with the primary business or a supporting business or subcontracts with a contractor for the provision of property, materials, or services for the construction or equipping of a facility, located within the zone, of the primary business or a supporting business.

b. "Primary business" means a business which pays its full-time production employees at the facility average cash compensation, which shall not include the cost of the business' contribution to retirement or health benefit plans, equating to fifteen dollars per hour worked by the end of the second full year of operation following project completion, and which provides the department of economic development within thirty days of the effective date of this Act, with notice of its intent to develop and operate a new manufacturing facility on a specific location within the state, including the legal description of the site which shall not contain more than two thousand five hundred acres, to invest at least two hundred fifty million dollars in the facility, and to commence construction of the facility by December 31, 1994, providing all necessary permits have been issued and zoning changes made in time for construction to begin by that date. The business shall also guarantee that it will create at least three hundred full-time jobs at the facility. The headquarters of the primary business need not be within the zone.

c. "Project completion" means the first date upon which the average annualized production of finished product for the preceding ninety-day period at the manufacturing facility operated by the primary business within the zone is at least fifty percent of the initial design capacity of the facility. The primary business shall inform the department of revenue and finance in writing within two weeks of project completion.

d. "Supporting business" means a business under contract with the primary business to provide property, materials, or services which are a necessary component of the operation of the manufacturing facility. To qualify as a supporting business, the business shall have a permanent facility or operations located within the zone and the revenue from fulfilling the contract with the primary business shall constitute at least seventy-five percent of the revenue generated by the business from all activities undertaken from the facility within the zone.

e. "Zone or zones" means a quality jobs enterprise zone or zones.

3. NEW JOBS CREDIT. At the request of the primary business or a supporting business, an agreement authorizing a supplemental new jobs credit from withholding from jobs within the zone may be entered into between the department of revenue and finance, a community college, and the primary business or a supporting business. The agreement shall be for program services for an additional job training project, as defined in chapter 260E. The agreement shall provide for the following:

a. That the project shall be administered in the same manner as a project under chapter 260E and that a supplemental new jobs credit from withholding in an amount equal to one and one-half percent of the gross wages paid by the primary business or a supporting business pursuant to section 422.16 is authorized to fund the program services for the additional project.

b. That the supplemental new jobs credit from withholding shall be collected, accounted for, and may be pledged by the community college in the same manner as described in section 260E.5.

c. That the community college shall not be allowed any expenses for administering the additional project except those expenses which are directly attributable to the additional project and which are in excess of the expenses allowed for the project under chapter 260E.

To provide funds for the payment of the costs of the additional project, a community college may borrow money, issue and sell certificates, and secure the payment of the certificates in the same manner as described in section 260E.6, including, but not limited to, providing the assessment of an annual levy as described in section 260E.6, subsection 4. The program and credit authorized by this subsection is in addition to, and not in lieu of, the program and credit authorized in chapter 260E.

4. INVESTMENT TAX CREDIT. The primary business and a supporting business shall be entitled to a corporate tax credit equal to ten percent of the new investment made within the zone by the primary business or a supporting business prior to project completion. A credit in excess of the tax liability for the tax year may be credited to the tax liability for the following twenty years or until depleted, whichever comes first.

For purposes of this section, "new investment made within the zone" means the capitalized cost of all real and personal property, including buildings and other improvements to real estate, purchased or otherwise acquired or relocated to the zone for use in the operation of the primary business or a supporting business within the zone. New investment in the zone does not include land, intangible property, or furniture and furnishings. The capitalized cost of property shall for the purposes of this section be determined in accordance with generally accepted accounting principles.

5. PROPERTY TAX EXEMPTION.

a. All property, as defined in section 427A.1, subsection 1, paragraphs "e" and "j", Code 1993, used by the primary business or a supporting business and located within the zone, shall be exempt from property taxation for a period of twenty years beginning with the year it is first assessed for taxation. In order to be eligible for this exemption, the property shall be acquired or leased by the primary business or a supporting business or relocated by the primary business or a supporting business to the zone from outside the state prior to project completion.

b. Property which is exempt for property tax purposes under this subsection is eligible for the sales and use tax exemption under section 422.45, subsection 27, notwithstanding that subsection or any other provision of the Code to the contrary.

6. SALES, SERVICE, AND USE TAX REFUND. Taxes paid pursuant to chapter 422 or 423 on the gross receipts or rental price of property purchased or rented by the primary business or a supporting business for use by the primary business or a supporting business within the zone or on gas, electricity, water, and sewer utility services prior to project completion shall be refunded to the primary business or supporting business if the item was purchased or the service was performed or received prior to project completion. Claims under this section shall be submitted on forms provided by the department of revenue and finance not later than six months after project completion. The refund in this subsection shall not apply to furniture or furnishings, or intangible property.

7. SALES, SERVICES, AND USE TAX REFUND – CONTRACTOR OR SUBCONTRACTOR. The primary business or a supporting business shall be entitled to a refund of the taxes paid under chapters 422 and 423 for gas, electricity, water, or sewer utility services, goods, wares, or merchandise, or on services rendered, furnished, or performed to or for a contractor or subcontractor and used in the fulfillment of a written contract relating to the construction or equipping of a facility within the zone of the primary business or a supporting business. Taxes attributable to intangible property and furniture and furnishings shall not be refunded.

To receive the refund a claim shall be filed by the primary business or a supporting business with the department of revenue and finance as follows:

a. The contractor or subcontractor shall state under oath, on forms provided by the department, the amount of the sales of goods, wares, or merchandise or services rendered, furnished, or performed including water, sewer, gas, and electric utility services for use in the zone upon which sales or use tax has been paid prior to the project completion, and shall file the forms with the primary business or supporting business before final settlement is made.

b. The primary business or a supporting business shall, not more than six months after project completion, make application to the department for any refund of the amount of the taxes paid pursuant to chapter 422 or 423 upon any goods, wares, or merchandise, or services rendered, furnished, or performed, including water, sewer, gas, and electric utility services. The application shall be made in the manner and upon forms to be provided by the department, and the department shall audit the claim and, if approved, issue a warrant to the primary business or supporting business in the amount of the sales or use tax which has been paid to the state of Iowa under a contract. A claim filed by the primary business or a supporting business in accordance with this subsection shall not be denied by reason of a limitation provision set forth in chapter 421, 422, or 423.

c. A contractor or subcontractor who willfully makes a false report of tax paid under the provisions of this subsection is guilty of a simple misdemeanor and in addition is liable for the payment of the tax and any applicable penalty and interest.

8. CORPORATE TAX RESEARCH CREDIT. A corporate tax credit shall be available to the primary business or a supporting business for increasing research activities in this state within the zone. The credit equals thirteen 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 within the zone to total qualified research expenditures. Any credit in excess of the tax liability for the tax year shall be refunded with interest computed under section 422.25. In lieu of claiming a refund, the primary business or a supporting business may elect to have the overpayment shown on its final return credited to its tax liability for the following tax year.

For the 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, 1994. The credit authorized in this subsection is in lieu of the credit authorized in section 422.33, subsection 5.

9. EXEMPTION FROM LAND OWNERSHIP RESTRICTIONS FOR NONRESIDENT ALIENS.

a. The primary business and a supporting business, to the extent the primary business or the supporting business is not actively engaged in farming within the zone, may acquire, own, and lease land in the zone, notwithstanding the provisions of section 9H.4, 9H.5, and 567.3, and shall be exempt from the requirements of section 567.4. The primary business and supporting business shall comply with the remaining provisions of chapters 9H and 567 to the extent they do not conflict with this subsection.

b. "Actively engaged in farming" means any of the following:

(1) Inspecting agricultural production activities within the zone periodically and furnishing at least half of the value of the tools and paying at least half the direct cost of production.

(2) Regularly and frequently making or taking an important part in making management decisions substantially contributing to or affecting the success of the farm operations within the zone.

(3) Performing physical work which significantly contributes to crop or livestock production.

10. LIMITATION ON ASSISTANCE. Economic development assistance under subsections 3 through 9 shall only be available to the primary business or a supporting business. However, if the department finds that a primary business or a supporting business has a record of violations of the law, including but not limited to environmental and worker safety statutes, rules, and regulations, over a period of time that tends to show a consistent pattern, the primary

business or supporting business shall not qualify for economic development assistance under subsections 3 through 9, unless the department finds that the violations did not seriously affect public health or safety or the environment, or if it did that there were mitigating circumstances. In making the findings and determinations regarding violations, mitigating circumstances, and whether a primary business or a supporting business is eligible for economic development assistance under subsections 3 through 9, the department shall be exempt from chapter 17A.

11. An economic cost benefit analysis shall be conducted by the legislative fiscal bureau for each zone established under this section for every five-year period through the duration of the zone. The analysis shall measure the impact upon both revenues and costs of the state and affected governmental subdivisions due to economic activities within the zone. The legislative fiscal bureau may contract for any services deemed necessary by the director to complete the analysis.

Sec. 18. LEGISLATIVE STUDY. The legislative council is requested to establish a task force to examine the service delivery system for economic development programs and to study the relationship between local and state governments and businesses in utilizing financial and tax incentives as economic development tools. The task force shall also study the need for and benefits of a compact with other states regarding economic noncompetition and the steps necessary to implement such a compact. Membership on the task force is requested to be the following:

1. Ten voting members from the senate and house of representatives, three members appointed by the majority leader of the senate, two members appointed by the minority leader of the senate, three members appointed by the speaker of the house of representatives, and two members appointed by the minority leader of the house of representatives.

2. Eight nonvoting members appointed by the legislative council as follows:

a. The director of the department of economic development or the director's designee.

b. One member each from lists provided by the association of business and industry, the Iowa state association of counties, the league of Iowa municipalities, the professional developers of Iowa, the Iowa business council, and two statewide labor organizations.

Sec. 19. EFFECTIVE DATES. Sections 14 through 18 of this Act, being deemed of immediate importance, take effect upon enactment. All other sections of this Act take effect May 1, 1994.

Approved March 4, 1994

CHAPTER 1009

CONTROLLED SUBSTANCES — PHARMACY LICENSES
H.F. 2172

AN ACT relating to the Iowa uniform controlled substances Act and the Iowa pharmacy practice Act, and making penalties applicable.

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

Section 1. Section 124.101, subsection 18, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

18. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

a. Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

b. Poppy straw and concentrate of poppy straw.

c. Opium poppy.

d. Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs "a" through "c".

Sec. 2. Section 124.204, subsection 1, Code 1993, is amended to read as follows:

1. ~~The controlled substances~~ Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section ~~are included in schedule~~ I.

Sec. 3. Section 124.204, subsection 2, paragraph c, Code 1993, is amended to read as follows:

c. Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).

Sec. 4. Section 124.204, subsection 2, Code 1993, is amended by adding the following new paragraphs:

NEW PARAGRAPH. au. Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).

NEW PARAGRAPH. av. Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).

NEW PARAGRAPH. aw. Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).

NEW PARAGRAPH. ax. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).

NEW PARAGRAPH. ay. 3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).

NEW PARAGRAPH. az. MPPP (1-methyl-4-phenyl-4-propionoxy-piperidine).

NEW PARAGRAPH. ba. Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl]-propanamide).

NEW PARAGRAPH. bb. PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine).

NEW PARAGRAPH. bc. Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).

Sec. 5. Section 124.204, subsection 4, paragraph y, Code 1993, is amended to read as follows:

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

Sec. 6. Section 124.204, subsection 4, Code 1993, is amended by adding the following new paragraphs:

NEW PARAGRAPH. z. 3,4-methylenedioxymethamphetamine (MDMA).

NEW PARAGRAPH. aa. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA).

NEW PARAGRAPH. ab. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA).

NEW PARAGRAPH. ac. 2,5-dimethoxy-4-ethylamphet-amine. Some trade or other names: DOET.

Sec. 7. Section 124.204, subsection 6, Code 1993, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. (+-)cis-4-methylaminorex ((+-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).

NEW PARAGRAPH. d. N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).

NEW PARAGRAPH. e. Cathinone. Some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone.

Sec. 8. Section 124.204, subsection 9, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

9. Other materials. Any material, compound, mixture, or preparation which contains any quantity of the following substances:

a. N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (denzylfentanyl), its optical isomers, salts and salts of isomers.

b. N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

c. Methcathinone. Some other names: 2-(methylamino)-propiophenone; alpha-(methylamino) propiophenone; ephedrone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; N-methylcathinone; methylcathinone; monomethylpropion; AL-464; AL-422; AL-463; and UR 1432, its salts, optical isomers, and salts of optical isomers.

d. Aminorex. Some other names: aminoxaphen, 2-amino-5-phenyl-2-oxazoline, or 4,5-dihydro-5-phenyl-2-oxazolamine, its salts, optical isomers, and salts of optical isomers.

e. Alpha-ethyltryptamine, its optical isomers, salts and salts of isomers. Some other names: etryptamine; a-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole.

Sec. 9. Section 124.206, subsection 3, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. z. Levo-alphacetylmethadol. Some other names: levo-alpha-acetylmethadol, levomethadyl acetate, LAAM.

Sec. 10. Section 124.206, subsection 7, paragraph b, Code 1993, is amended to read as follows:

b. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product. [Some other names for dronabinol ~~(6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran-1-01, or (-)-delta 9-(trans)-tetrahydrocannabinol:~~ (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.]

Sec. 11. Section 124.208, subsection 1, Code 1993, is amended to read as follows:

1. ~~The controlled substances~~ Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section ~~are included in schedule~~ III.

Sec. 12. Section 124.208, subsection 3, paragraph k, subparagraphs (2) and (3), Code 1993, are amended to read as follows:

(2) Some trade or other names for tiletamine: ~~2-[ethylamino]-2-[2-thienyl]-cyclohexanone~~ 2-(ethylamino)-2-(2-thienyl)-cyclohexanone.

(3) Some trade or other names for zolazepam: ~~4-[2-fluorophenyl]-6,8-dihydro-1,3,8-trimethylpyraxolo-[3,4-e]-[1,4]-diazepin-7[1H]-one flupyrazapon~~ 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyraxolo-[3,4-e] [1,4]-diazepin-7(1H)-one flupyrazapon.

Sec. 13. Section 124.208, subsection 5, paragraph d, Code 1993, is amended to read as follows:

d. Not more than three hundred milligrams of dihydrocodeinone (another name: hydrocodone) per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts.

Sec. 14. Section 124.210, subsection 1, Code 1993, is amended to read as follows:

1. ~~The controlled substances~~ Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section ~~are included in schedule~~ IV.

Sec. 15. Section 124.210, subsection 3, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. av. Zolpidem.

Sec. 16. Section 124.212, subsection 1, Code 1993, is amended to read as follows:

1. ~~The controlled substances~~ Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section ~~are included in schedule~~ V.

Sec. 17. Section 124.212, subsection 4, Code 1993, is amended to read as follows:

4. Stimulants. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of ~~the following substances having a stimulant effect on the central nervous system~~ pyrovalerone, including its salts, isomers, and salts of isomers:.

~~a. Propylhexedrine.~~

~~b. Pyrovalerone.~~

Sec. 18. Section 155A.13A, subsection 2, Code 1993, is amended to read as follows:

2. LICENSE RENEWAL. A nonresident pharmacy shall renew its license on or before January 1 annually. In order to renew a nonresident pharmacy license, a nonresident pharmacy shall submit a renewal fee as determined by the board, and shall fulfill all of the requirements of subsection 1, paragraphs "b" through "e". A nonresident pharmacy shall pay an additional fee for late renewal ~~for failure to renew a license within thirty-one days after expiration of the license~~ as determined by the board.

Approved March 7, 1994

CHAPTER 1010

QUALIFICATIONS FOR SHERIFFS
S.F. 294

AN ACT relating to qualifications for sheriffs.

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

Section 1. Section 331.651, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person elected or appointed sheriff shall meet all the following qualifications:

a. Have no felony convictions.

b. Be age twenty-one or over at the time of assuming the office of sheriff.

c. Be a certified peace officer recognized by the Iowa law enforcement academy council under chapter 80B or complete the basic training course provided at the Iowa law enforcement academy's central training facility or a location other than the central training facility within one year of taking office. A person shall be deemed to have completed the basic training course if the person meets all course requirements except the physical training requirements.

Approved March 11, 1994

CHAPTER 1011

MULTI-STATE LIFE AND HEALTH INSURANCE RESOLUTION FACILITY
S.F. 2276

AN ACT relating to and authorizing the establishment of a legal entity for the administration of the insurance business of impaired or insolvent insurers by one or more state life and health insurance guaranty associations and providing for assessments.

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

Section 1. NEW SECTION. 508D.1 TITLE.

This chapter shall be cited as the "Multi-state Life and Health Insurance Resolution Facility Act".

Sec. 2. NEW SECTION. 508D.2 PURPOSE.

The purpose of this chapter is to authorize the formation of an entity by one or more state life and health insurance guaranty associations for the purpose of administering and disposing of the business of impaired or insolvent insurance companies assumed by or assigned to the entity by its member guaranty associations, or by impaired or insolvent insurers through the impaired or insolvent insurer's duly appointed receiver, liquidator, or rehabilitator, and to establish the conditions under which such an entity shall do business.

Sec. 3. NEW SECTION. 508D.3 DEFINITIONS.

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

1. "Facility" means the multi-state life and health insurance resolution facility created pursuant to section 508D.4 as a legal entity domiciled in Iowa with its principal place of business and other business offices either within or without the state of Iowa as the board of directors may designate or as the business of the entity may require and established for the purpose set out in section 508D.2.

2. "Member guaranty association" means the Iowa life and health insurance guaranty association created pursuant to chapter 508C or any other state life and health insurance guaranty association which is or becomes a member of the facility pursuant to the plan of operation.

3. "Oversight organization" means the Iowa commissioner of insurance and the state insurance commissioner, or other state official charged with the responsibility of regulating the insurance industry in the same or similar manner as the Iowa commissioner of insurance, from the state of domicile of each member guaranty association.

Sec. 4. NEW SECTION. 508D.4 FACILITY ESTABLISHED.

The facility may be created by one or more life and health insurance guaranty associations for the purpose set out in section 508D.2. The name of the facility shall be the multi-state life and health insurance resolution facility. A life and health insurance guaranty association or other entity as approved by the board may elect to become a member of the association. The facility shall perform its functions under a plan of operation established and approved under section 508D.7 and shall exercise its powers through a board of directors established under section 508D.5. Only one facility shall be established pursuant to this chapter.

Sec. 5. NEW SECTION. 508D.5 BOARD OF DIRECTORS.

1. The members of the board of directors shall be selected by the member guaranty associations. The number of members of the board and their terms shall be established in the plan of operation. Vacancies on the board shall be filled for the remaining period of the term by a majority vote of the remaining board members. In determining voting rights, each member guaranty association shall be entitled to one vote in person or by proxy.

2. The initial board of directors of the facility shall be established by the Iowa life and health insurance guaranty association and shall consist of not less than five nor more than nine members. The initial board of directors shall adopt a plan of operation for the facility as provided in section 508D.7.

3. Members of the board of directors are entitled to reasonable compensation for expenses incurred in attending meetings of the board or while on business conducted on behalf of the facility. Members of the board may also be compensated by the facility for their services provided as members of the board as provided in the plan of operation.

Sec. 6. NEW SECTION. 508D.6 POWERS AND DUTIES OF THE FACILITY.

1. The facility shall perform those duties of the member guaranty associations which are delegated to the facility as permitted under the enabling legislation of each member guaranty association and which are consistent with the plan of operation.

2. Except as otherwise provided in this chapter, the facility is granted specific authority to exercise the powers of a domestic life or health insurer.

3. The facility is not authorized to solicit, advertise, market, sell, underwrite, issue, insure, administer, or reinsure new insurance business or insurance business of insurance companies which are not impaired or insolvent according to the laws of their state of domicile.

4. The board of directors of the facility may enter into agreements with any interstate compact organization established for the purpose of administering impaired or insolvent insurance companies in this or any other state.

5. An activity involving the authority of the facility derived from chapter 507C or other law related to insurer supervision, rehabilitation, and liquidation shall be performed in compliance with the requirements of such law.

6. The facility established under this chapter is not subject to any insurance licensing requirements and an employee of the facility is not subject to any insurance licensing requirements for activities performed within the employee's scope of duties. All regulatory oversight of the facility shall be conducted by the oversight organization.

Sec. 7. NEW SECTION. 508D.7 PLAN OF OPERATION.

1. The facility shall submit to the oversight organization a plan of operation and any amendments to the plan of operation necessary or suitable to assure the fair, reasonable, and equitable administration of the facility's business. The plan of operation and any amendments to the plan are effective upon the oversight organization's written approval.

2. The plan of operation, in addition to other requirements established in this chapter, shall establish all of the following:

a. Procedures for administering the assets under the control of the facility.

b. Regular places and times for meetings of the board of directors.

c. Procedures for records to be kept of all financial transactions engaged in by the facility, the agents of the facility, and the board of directors.

d. Procedures for selecting the board of directors and submitting the selections to the oversight organization.

e. Procedures for permitting life and health insurance guaranty associations to become members of the facility.

f. Procedures for the assumption of the insurance business or the assignment of the insurance business to the facility by member guaranty associations.

g. Procedures for determining and making assessments against member guaranty associations by the board of directors.

h. Additional provisions necessary and proper for the execution of the powers and duties of the facility.

i. A description of staffing requirements and qualifications for positions within the facility.

3. The plan of operation may provide that any powers and duties of the facility, except the power to borrow money and the power to make assessments, may be delegated to a corporation, association, or other organization or individual which performs or will perform those functions. Such corporation, association, or other organization or individual shall be reimbursed for any payments made on behalf of the facility and shall be compensated for the performance of any permissible function, as directed by the facility. A delegation of any power or duty pursuant to this subsection takes effect only with the approval of the board of directors.

Sec. 8. NEW SECTION. 508D.8 COSTS AND ASSESSMENTS.

1. Costs of administration shall be recorded separately for each impaired or insolvent company and those costs shall be reimbursed from the assets of such company.

2. The board of directors of the facility shall assess the member guaranty associations at the time and for the amounts the board finds necessary to reimburse the facility for any additional costs not reimbursed from assets managed by the facility. Assessments made pursuant to this subsection shall be allocated among member guaranty associations pursuant to a formula adopted by the board and consistent with each individual guaranty association's liability for the facility's insurance business which is the subject of the assessment. An assessment is due not less than ninety days after prior written notice has been sent to the member guaranty association and accrues interest at ten percent per annum commencing on the due date.

3. The total of all assessments upon a member guaranty association shall not exceed in any one calendar year the limit set by the enabling legislation of the member guaranty association's state of domicile for assessments against insurance companies. If a maximum assessment in any one year does not provide an amount sufficient to carry out the responsibilities of the facility, the necessary additional funds shall be assessed in succeeding years as soon as permitted by this chapter and by the enabling legislation of the member guaranty association's state of domicile.

4. Notwithstanding subsection 3, the Iowa life and health insurance guaranty association shall levy additional assessments not to exceed one hundred dollars per company per year if necessary to fund organizational expenses of the facility.

Sec. 9. NEW SECTION. 508D.9 MISCELLANEOUS PROVISIONS.

1. Records shall be kept of all negotiations and meetings in which the facility or the facility's representatives are involved to discuss the activities of the facility in carrying out the powers and duties set out under section 508D.6. Records of negotiations or meetings shall be made public pursuant to chapter 22 only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurance company whose business was assumed by or assigned to the facility, upon the termination of the impairment or

insolvency of the insurance company, or upon the order of a court of competent jurisdiction. This subsection does not limit the duty of the association to render a report of its activities under subsection 2.

2. The facility is subject to examination and regulation by the oversight organization. The board of directors shall submit to the oversight organization by June 1 of each year a financial report for the preceding calendar year and a report of its activities during the preceding calendar year. The financial report shall be in a form approved by the oversight organization.

3. The facility is exempt from payment of all fees and taxes levied by this state or any of its subdivisions on insurance companies, except taxes levied on the real property of the facility.

4. A member guaranty association and its agents and employees, the facility and its agents and employees, members of the board of directors, and the oversight organization and its representatives are not liable for any acts or omissions while acting within the scope of their employment and in the performance of their powers and duties under this chapter, except for acts or omissions not in good faith which involve intentional misconduct or which involve a knowing violation of law.

Approved March 24, 1994

CHAPTER 1012

INVESTMENTS BY POLITICAL SUBDIVISIONS

H.F. 425

AN ACT relating to the investment of public funds in levee or drainage district warrants or improvement certificates and providing an effective date.

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

Section 1. Section 12B.10, subsection 5, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. Warrants or improvement certificates of a levee or drainage district.

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

Approved March 25, 1994

CHAPTER 1013

VACATING AND CLOSING OF ROADS
H.F. 605

AN ACT relating to damage claims for the vacating and closing of roads.

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

Section 1. Section 306.12, Code 1993, is amended to read as follows:
306.12 NOTICE — SERVICE.
Notice of the hearing under section 306.11 shall be published in a newspaper of general circulation in the county or counties where the road is located, not less than four nor more than twenty days prior to the date of hearing. The agency which is holding the hearing shall notify all adjoining property owners, all utility companies whose facilities adjoin the road right of way or are on the road right of way, and the department, boards of supervisors, or agency in control of affected state lands, of the time and place of the hearing, by certified mail, and shall notify all property owners within one mile of the road by regular mail.

Sec. 2. Section 306.14, Code 1993, is amended to read as follows:
306.14 OBJECTIONS — CLAIMS FOR DAMAGES.
~~At such hearing, the~~ The department, the board of supervisors, or the agency in control of affected state lands~~, as the case may be,~~ and any interested person, may appear ~~and object~~ and be heard at the hearing. Any person owning land abutting on a road ~~which it is~~ proposed to ~~vacate~~ be vacated and ~~close~~ closed, shall have the right to file, in writing, a claim for damages at any time on or before the date fixed for hearing. However, for purposes of this chapter, if an occupied homestead is not located on the abutting land and if the vacating and closing of the road will not landlock the abutting land, a person shall not have a right to claim damages.

Approved March 25, 1994

CHAPTER 1014

COUNTY GENERAL OBLIGATION BONDS FOR WATER SYSTEMS AND FACILITIES
H.F. 606

AN ACT relating to procedures for the issuance and use of general obligation bonds by counties for the funding of water systems and facilities.

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

Section 1. Section 331.441, subsection 2, paragraph b, subparagraph (12), subparagraph subdivisions (a) through (c), Code Supplement 1993, are amended by striking the subparagraph subdivisions, and inserting in lieu thereof the following:
(a) The county board of supervisors may on its own motion or upon a written petition of a water supplier established under chapter 357A or 504A, direct the county auditor to establish a special service area tax district for the purpose of issuing general obligation bonds. The special service area tax district shall include only unincorporated portions of the county and shall be drawn according to engineering recommendations provided by the water supplier or the county engineer and, in addition, shall be drawn in order that an election provided for in subparagraph subdivision (b) can be administered. The county's debt service tax levy for the county general obligation bonds issued for the purposes set out in this subparagraph shall be levied only against taxable property within the county which is included within the boundaries of the special service area tax district. An owner of property not included within the boundaries of the special service area taxes district may petition the board of supervisors to be included in the special area tax district subsequent to its establishment.

(b) General obligation bonds for the purposes described in this subparagraph are subject to an election held in the manner provided in section 331.442, subsections 1 through 4, if not later than fifteen days following the action by the county board of supervisors, eligible voters file a petition with the county commissioner of elections asking that the question of issuing the bonds be submitted to the qualified electors of the special service area tax district. The petition must be signed by at least five percent of the registered voters residing in the special service area tax district. If the petition is duly filed within the fifteen days, the board of supervisors shall either adopt a resolution declaring that the proposal to issue the bonds is abandoned, or direct the county commissioner of elections to call a special election within a special service area tax district upon the question of issuing the bonds.

Approved March 25, 1994

CHAPTER 1015

HANDICAPPED PARKING SPACES

H.F. 2086

AN ACT relating to federal dimensional requirements for handicapped parking spaces.

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

Section 1. Section 321L.5, subsection 2, Code 1993, is amended to read as follows:

2. A handicapped parking space designated after July 1, 1990, shall be in accordance with the dimension requirements ~~of 36 C.F.R. § 1190.31~~ specified in rules adopted by the department of public safety that were in effect when the spaces were designated. The department shall adopt standards which are consistent with the requirements of federal law. However, these dimension requirements do not apply to parallel on-street parking spaces.

Approved March 25, 1994

CHAPTER 1016

SALES AND USE TAX EXEMPTION FOR MEDICAL DEVICES
H.F. 2102

AN ACT relating to the exemption from the state sales tax for certain medical devices and providing a retroactive applicability provision.

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

Section 1. Section 422.45, subsection 13, paragraph a, Code Supplement 1993, is amended to read as follows:

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 needles, anesthesia trays, biopsy trays and biopsy needles, cannula systems, catheter trays and invasive catheters, dialyzers, drug infusion devices, fistula sets, hemodialysis devices, insulin infusion devices, interocular* lenses, irrigation solutions, intravenous administering sets, solutions and stopcocks, myelogram trays, nebulizers, small vein infusion kits, spinal puncture trays, transfusion sets, venous blood sets, and oxygen equipment, intended to be dispensed for human use with or without a prescription to an ultimate user.

Sec. 2. RETROACTIVE APPLICABILITY. This Act applies retroactively to July 1, 1993, for sales made on or after that date.

Sec. 3. REFUNDS. Claims for refund of tax, interest, or penalty which arise as a result of the enactment of the amendment to section 422.45, subsection 13, in section 1 of this Act, for the sale of medical devices occurring between July 1, 1993, and June 30, 1994, shall be limited to five thousand dollars in the aggregate and shall not be allowed unless filed prior to June 30, 1995, notwithstanding any other provision of law. If the amount of claims total more than five thousand dollars in the aggregate, the department of revenue and finance shall prorate the five thousand dollars among all the claims.

Approved March 28, 1994

CHAPTER 1017

REGULATION OF ALCOHOLIC BEVERAGES LICENSEES AND PERMITTEES
H.F. 2115

AN ACT relating to the regulation of alcoholic beverages licensees and permittees, by providing for the imposition, suspension, and revocation of civil penalties, by establishing a broker's permit and annual fee, by eliminating the alcoholic liquor wholesaler license and bond, by prohibiting certain gifts of liquor, by making other properly related amendments, and subjecting violators to existing penalties.

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

Section 1. Section 123.3, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Broker" means a person who represents or promotes alcoholic liquor within the state on behalf of the holder of a distiller's certificate of compliance through an agreement with the distiller, and whose name is disclosed on a distiller's current certificate of compliance as its representative in the state. An employee of the holder of a distiller's certificate of compliance is not a broker.

*"Intraocular" probably intended

Sec. 2. Section 123.39, subsection 1, paragraph a, Code Supplement 1993, is amended to read as follows:

1. a. The administrator or the local authority may suspend a ~~liquor control~~ license, ~~wine permit,~~ or ~~beer~~ permit issued pursuant to the chapter for a period not to exceed one year, 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~~ license 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.

Sec. 3. Section 123.42, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

123.42 BROKER'S PERMIT.

1. Prior to representing or promoting a distiller's alcoholic liquor products in the state, the broker shall make application to the administrator on forms provided by the division for a broker's permit. The administrator may in accordance with this chapter issue a broker's permit which shall be valid for one year from the date of issuance unless it is sooner suspended or revoked for a violation of this chapter. A broker's permit is valid throughout the state, and a broker who represents more than one distiller is required to obtain only one broker's permit.

2. The annual fee for a broker's permit is twenty-five dollars.

3. An employee of a broker is not required to apply for or hold a broker's permit.

4. The holder of a distiller's certificate of compliance is not required to appoint a broker to represent its alcoholic liquor products in the state. If the holder of a distiller's certificate of compliance appoints a broker to represent its alcoholic liquor products in the state, the name and address of the broker shall be disclosed on the distiller's application for a certificate of compliance, and the requirements in this section shall apply to the appointed broker.

Sec. 4. Section 123.43, Code 1993, is amended to read as follows:

123.43 CONDITIONS — BOND.

As a condition precedent to the approval and granting of ~~any~~ a license to a manufacturer ~~or wholesaler, there~~ the applicant for a manufacturer's license shall ~~be filed with the division~~ file a statement under oath with the division that the applicant is a bona fide manufacturer ~~or wholesaler~~ of alcoholic liquors, and that the applicant will faithfully observe and comply with all laws, rules and regulations ~~of the division and that the applicant will in all respects comply with the provisions of this chapter, together with a bond in the penal sum of five thousand dollars for a manufacturer and one thousand dollars for a wholesaler with a surety to be approved by the administrator; said bond to be in favor of the state of Iowa for the benefit of the state in case of any violation of this chapter~~ governing the manufacture and sale of alcoholic liquor. An applicant for a manufacturer's license shall post a bond in the penal sum of five thousand dollars with surety approved by the administrator. The bond may be forfeited to the state for a violation of the chapter.

Sec. 5. Section 123.44, Code 1993, is amended to read as follows:

123.44 GIFT OF LIQUORS PROHIBITED.

A manufacturer or ~~wholesaler~~ broker shall not give away ~~any~~ alcoholic liquor ~~of any kind or description~~ at any time in connection with the manufacturer's or ~~wholesaler's~~ broker's business except for testing or sampling purposes only. A manufacturer, vintner, broker, wholesaler, or importer, organized as a corporation pursuant to the laws of this state or any other state, who deals in alcoholic liquor, wine, or beer subject to regulation under this chapter shall not

offer or give anything of value to ~~any~~ a commission member, official or employee of the division, or directly or indirectly contribute in any manner any money or thing of value to ~~any~~ a person seeking a public or appointive office or ~~any~~ a recognized political party or a group of persons seeking to become a recognized political party.

Sec. 6. Section 123.124, Code 1993, is amended to read as follows:

123.124 PERMITS — CLASSES.

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

Sec. 7. Section 123.132, Code 1993, is amended to read as follows:

123.132 AUTHORITY UNDER CLASS "C" PERMIT.

~~Any person holding~~ The holder of a class "C" permit shall be allowed to sell beer to consumers at retail for consumption off the premises. ~~Such~~ The sales made pursuant to this section shall be made in original containers only. The holder of a class "C" permit or the permittee's agents or employees shall not sell beer to other retail license or permit holders knowing or having reasonable cause to believe that the beer will be resold in another licensed establishment.

Approved March 28, 1994

CHAPTER 1018

DEER AND WILD TURKEY HUNTING LICENSES

H.F. 2126

AN ACT amending the definition of tenant for eligibility for free deer and wild turkey hunting licenses.

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

Section 1. Section 483A.24, subsection 7, Code 1993, is amended to read as follows:

7. As used in this section a "farm unit" is all the parcels of land, not necessarily contiguous, which are operated as a unit for agricultural purposes and which are under the lawful control of the landowner or tenant, and a "tenant" is a person, other than the landowner ~~or landowner's family~~, who resides on the farm unit and is actively engaged in the operation of the farm unit.

Approved March 28, 1994

CHAPTER 1019

EQUIPMENT FOR DISPLAY AND SALE OF DAIRY PRODUCTS

H.F. 2194

AN ACT providing for the display and sale of dairy products by allowing processors and distributors to lend equipment to retailers.

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

Section 1. Section 192A.11, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A processor or distributor may lend equipment to a retailer, for not longer than two consecutive weeks each month, if the equipment is used for the display and sale of the processor's or distributor's products. The equipment must be mounted on wheels, it must be designed for consumer access on all sides, and it must have a capacity of less than fifteen cubic feet.

Approved March 28, 1994

CHAPTER 1020

SCHOOL ATTENDANCE REQUIREMENTS

S.F. 2237

AN ACT relating to attendance requirements for graduating secondary school pupils and providing an effective date.

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

Section 1. Section 279.10, subsection 1, Code 1993, is amended to read as follows:

1. The school year shall begin on the first day of July and each regularly established elementary and secondary school shall begin no sooner than a day during the calendar week in which the first day of September falls but no later than the first Monday in December. However, if the first day of September falls on a Sunday, school may begin on a day during the calendar week which immediately precedes the first day of September. School shall continue for at least one hundred eighty days, except as provided in subsection 3, and may be maintained during the entire calendar year. However, if the board of directors of a district extends the school calendar because inclement weather caused the district to temporarily close school during the regular school calendar, the district may excuse a graduating senior who has met district or school requirements for graduation from attendance during the extended school calendar. A school corporation may begin employment of personnel for in-service training and development purposes before the date to begin elementary and secondary school.

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

Approved March 30, 1994

CHAPTER 1021

GAMBLING

H.F. 2179

AN ACT relating to gambling and the regulation of gambling at pari-mutuel racetracks and on excursion gambling boats, providing for a county referendum, imposing a tax, allocating gaming revenues, providing an effective date, providing for other properly related matters, and subjecting violators to existing penalties.

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

Section 1. Section 99B.6, subsection 1, paragraph k, Code 1993, is amended to read as follows:

k. ~~No~~ A person under the age of ~~eighteen~~ twenty-one years ~~may~~ shall not participate in the gambling except pursuant to sections 99B.3, 99B.4, 99B.5, and 99B.7. Any licensee knowingly allowing a person under the age of ~~eighteen~~ twenty-one to participate in the gambling prohibited by this paragraph or any person knowingly participating in ~~such~~ gambling with a person under the age of ~~eighteen~~ twenty-one, ~~shall be~~ is guilty of a simple misdemeanor.

Sec. 2. Section 99D.9, subsection 1, Code 1993, is amended to read as follows:

1. If the commission is satisfied that its rules and sections 99D.8 through 99D.25 applicable to licensees have been or will be complied with, it may issue a license for a period of not more than three years. The commission may decide which types of racing it will permit. The commission may permit dog racing, horse racing of various types or both dog and horse racing. The commission shall decide the number, location, and type of all racetracks licensed under this chapter. The license shall set forth the name of the licensee, the type of license granted, the place where the race meeting is to be held, and the time and number of days during which racing may be conducted by the licensee. The commission shall not approve the licenses for racetracks in Dubuque county and Black Hawk county if the proposed racing schedules of the two tracks conflict. The commission shall not approve a license application if any part of the racetrack is to be constructed on prime farmland outside the city limits of an incorporated city. As used in this subsection, "prime farmland" means as defined by the United States department of agriculture in 7 C.F.R. sec. 657.5(a). A license is not transferable or assignable. The commission may revoke any license issued for good cause upon reasonable notice and hearing. The commission shall conduct a neighborhood impact study to determine the impact of granting a license on the quality of life in neighborhoods adjacent to the proposed racetrack facility. The applicant for the license shall reimburse the commission for the costs incurred in making the study. A copy of the study shall be retained on file with the commission and shall be a public record. The study shall be completed before the commission may issue a license for the proposed facility.

Sec. 3. Section 99D.11, subsection 6, paragraph b, Code 1993, is amended to read as follows:

b. The commission may authorize the licensee to simultaneously telecast within the racetrack enclosure, for the purpose of pari-mutuel wagering, a horse or dog race licensed by the racing authority of another state. It is the responsibility of each licensee to obtain the consent of appropriate racing officials in other states as required by the federal Interstate Horseracing Act of 1978, 15 U.S.C. § 3001-3007, to televise races for the purpose of conducting pari-mutuel wagering. A licensee may also obtain the permission of a person licensed by the commission to conduct horse or dog races in this state to televise races conducted by that person for the purpose of conducting pari-mutuel racing. However, arrangements made by a licensee to televise any race for the purpose of conducting pari-mutuel wagering are subject to the approval of the commission, and the commission shall select the races to be televised. The races selected by the commission shall be the same for all licensees approved by the commission to televise races for the purpose of conducting pari-mutuel wagering. The commission shall not authorize the simultaneous telecast or televising of and a licensee shall not simultaneously telecast or televise any horse or dog race for the purpose of conducting pari-mutuel wagering unless the simultaneous telecast or televising is done at the racetrack of a licensee that schedules

no less than ~~ninety~~ sixty performances of nine live races each day of the season. For purposes of the taxes imposed under this chapter, races televised by a licensee for purposes of pari-mutuel wagering shall be treated as if the races were held at the racetrack of the licensee.

Sec. 4. Section 99D.11, subsection 7, Code 1993, is amended to read as follows:

7. A person under the age of ~~eighteen~~ twenty-one years shall not make a pari-mutuel wager.

Sec. 5. Section 99D.24, subsection 2, Code 1993, is amended to read as follows:

2. A person knowingly permitting a person under the age of ~~eighteen~~ twenty-one years to make a pari-mutuel wager is guilty of a simple misdemeanor.

Sec. 6. Section 99E.18, subsection 2, Code 1993, is amended to read as follows:

2. A ticket or share shall not be sold to a person who has not reached the age of ~~eighteen~~ twenty-one. This does not prohibit the lawful purchase of a ticket or share for the purpose of making a gift to a person who has not reached the age of ~~eighteen~~ twenty-one. A licensee or a licensee's employee who knowingly sells or offers to sell a lottery ticket or share to a person who has not reached the age of ~~eighteen~~ twenty-one is guilty of a simple misdemeanor. In addition the license of a licensee shall be suspended. A prize won by a person who has not reached the age of ~~eighteen~~ twenty-one but who purchases a winning ticket or share in violation of this subsection shall be forfeited.

Sec. 7. Section 99F.1, subsections 8 and 15, Code 1993, are amended by striking the subsections.

Sec. 8. Section 99F.1, subsection 10, Code 1993, is amended to read as follows:

10. "Gambling game" means any game of chance authorized by the commission. However, for racetrack enclosures, "gambling game" does not include table games of chance or video machines. "Gambling game" does not include sports betting.

Sec. 9. Section 99F.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 17. "Racetrack enclosure" means the grandstand, clubhouse, turf club, or other areas of a licensed racetrack which an individual may enter only upon payment of an admission fee or upon presentation of authorized credentials. "Racetrack enclosure" also means any additional areas designated by the commission.

Sec. 10. Section 99F.4, subsection 4, Code Supplement 1993, is amended to read as follows:

4. To ~~regulate the wagering structure for gambling excursions including providing a maximum wager of five dollars per hand or play and maximum loss of two hundred dollars per individual player per gambling excursion~~ license the licensee of a pari-mutuel dog or horse racetrack enclosure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling except as otherwise provided in section 99F.4A.

Sec. 11. Section 99F.4, subsection 17, Code Supplement 1993, is amended to read as follows:

17. To define the excursion season and the duration of an excursion ~~which shall be at least three hours during the excursion season. For the off season, the commission shall adopt rules limiting times of admission to excursion gambling boats consistent with maximum loss per player per gambling excursion specified in subsection 4.~~ While an excursion gambling boat is docked, passengers may embark or disembark at any time during its business hours.

Sec. 12. Section 99F.4, subsection 20, Code Supplement 1993, is amended by striking the subsection.

Sec. 13. NEW SECTION. 99F.4A GAMBLING GAMES AT PARI-MUTUEL RACETRACKS – FEES AND TAXES.

1. Upon application, the commission shall license the licensee of a pari-mutuel dog or horse racetrack to operate gambling games at a pari-mutuel racetrack enclosure subject to the provisions of this chapter and rules adopted pursuant to this chapter relating to gambling except as otherwise provided in this section.

2. A license to operate gambling games shall be issued only to a licensee holding a valid license to conduct pari-mutuel dog or horse racing pursuant to chapter 99D on January 1, 1994.

3. A person holding a valid license pursuant to chapter 99D to conduct pari-mutuel wagering at a dog or horse racetrack is exempt from further investigation and examination for licensing to operate a gambling game pursuant to this chapter. However, the commission may order future investigations or examinations as the commission finds appropriate.

4. The fee imposed in section 99D.14, subsection 2, shall be collected for admission to a racetrack enclosure where gambling games are licensed to operate in lieu of the admission fee imposed in section 99F.10.

5. In lieu of the annual license fee specified in section 99F.5, the annual license fee for operating gambling games at a pari-mutuel racetrack shall be one thousand dollars.

6. The adjusted gross receipts received from gambling games shall be taxed at the same rates and the proceeds distributed in the same manner as provided in section 99F.11.

7. A licensee shall keep its books and records regarding the operation of gambling games in compliance with section 99F.12, as applicable.

Sec. 14. Section 99F.5, subsection 1, Code 1993, is amended to read as follows:

1. A qualified sponsoring organization may apply to the commission for a license to conduct gambling games on an excursion gambling boat as provided in this chapter. A person may apply to the commission for a license to operate an excursion gambling boat. The application shall be filed with the administrator of the commission at least ninety days before the first day of the next excursion season as determined by the commission, shall identify the excursion gambling boat upon which gambling games will be authorized, shall specify the exact location where the excursion gambling boat will be docked, and shall be in a form and contain information as the commission prescribes. The minimum passenger capacity of an excursion gambling boat is two hundred fifty persons.

Sec. 15. Section 99F.6, subsection 4, Code 1993, is amended to read as follows:

4. a. Before a license is granted, the division of criminal investigation of the department of public safety shall conduct a thorough background investigation of the applicant for a license to operate a gambling game operation on an excursion gambling boat. The applicant shall provide information on a form as required by the division of criminal investigation. Before a qualified sponsoring organization is licensed to operate gambling games under this chapter, the qualified sponsoring organization shall certify that the receipts of all gambling games, less reasonable expenses, charges, taxes, fees, and deductions allowed under this chapter, will be distributed as winnings to players or participants or will be distributed for educational, civic, public, charitable, patriotic, or religious uses as defined in section 99B.7, subsection 3, paragraph "b". However, if a licensee who is also licensed to conduct pari-mutuel wagering at a horse racetrack has unpaid debt from the pari-mutuel racetrack operations, the first receipts of the gambling games operated within the racetrack enclosure less reasonable operating expenses, taxes, and fees allowed under this chapter shall be first used to pay the annual indebtedness. The commission shall authorize, subject to the debt payments for horse racetracks and the provisions of paragraph "b" for dog racetracks, a licensee who is also licensed to conduct pari-mutuel dog or horse racing to use receipts from gambling games within the racetrack enclosure to supplement purses for races particularly for Iowa-bred horses pursuant to an agreement which shall be negotiated between the licensee and representatives of the dog or horse owners. A qualified sponsoring organization shall not make a contribution to a candidate, political committee, candidate's committee, state statutory political committee, county statutory political committee, national political party, or fund-raising event as these terms are defined in section 56.2. The membership of the board of directors of a qualified sponsoring organization shall represent a broad interest of the communities.

b. The commission shall authorize the licensees of pari-mutuel dog racetracks located in Dubuque county and Black Hawk county to conduct gambling games as provided in section 99F.4A if the licensees schedule at least one hundred thirty performances of twelve live races

each day during a season of twenty-five weeks. For the pari-mutuel dog racetrack located in Pottawattamie county, the commission shall authorize the licensee to conduct gambling games as provided in section 99F.4A if the licensee schedules at least two hundred ninety performances of twelve live races each day during a season of fifty weeks. The commission shall approve an annual contract to be negotiated between the annual recipient of the dog racing promotion fund and each dog racetrack licensee to specify the percentage or amount of gambling game proceeds which shall be dedicated to supplement the purses of live dog races. The parties shall agree to a negotiation timetable to insure no interruption of business activity. If the parties fail to agree, the commission shall impose a timetable. If the two parties cannot reach agreement, each party shall select a representative and the two representatives shall select a third person to assist in negotiating an agreement. The two representatives may select the commission or one of its members to serve as the third party. Alternately, each party shall submit the name of the proposed third person to the commission who shall then select one of the two persons to serve as the third party. All parties to the negotiations, including the commission, shall consider that the dog racetracks were built to facilitate the development and promotion of Iowa greyhound racing dogs in this state and shall negotiate and decide accordingly.

Sec. 16. Section 99F.7, subsection 5, paragraph a, Code Supplement 1993, is amended by striking the paragraph.

Sec. 17. Section 99F.7, subsection 10, paragraph c, Code Supplement 1993, is amended to read as follows:

c. If, after ~~July 1, 1989~~ January 1, 1994, section 99F.4, subsection 4, or 99F.9, subsection 2, is amended or stricken, including any amending or striking by this Act, or a licensee of a pari-mutuel racetrack who held a valid license issued under chapter 99D as of January 1, 1994, requests a license to operate gambling games as provided in this chapter, the board of supervisors of a county in which excursion boat gambling has been approved or in which the licensee of a pari-mutuel racetrack requests a license to operate gambling games shall submit to the county electorate a proposition to approve or disapprove the conduct of gambling games on excursion gambling boats or the operation of gambling games at pari-mutuel racetracks at a special election at the earliest practicable time. If excursion boat gambling is not approved by a majority of the county electorate voting on the proposition at the election, paragraph "b" does not apply to the licenses and the commission shall cancel the licenses issued for the county within sixty days of the unfavorable referendum. If the operation of gambling games at the pari-mutuel racetrack is not approved by a majority of the county electorate voting on the proposition at the election, the commission shall not issue a license to operate gambling games at the racetrack. If the proposition to operate gambling games on an excursion gambling boat or at a racetrack enclosure is approved by a majority of the county electorate voting on the proposition, the board of supervisors shall submit the same proposition to the county electorate at the general election held in 2002 and, unless the operation of gambling games is not terminated earlier as provided in this chapter or chapter 99D, at the general election held at each subsequent eight-year interval.

Sec. 18. Section 99F.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 16. The commission shall require each licensee operating gambling games to post in conspicuous locations specified by the commission the average percentage pay out from the gambling machines.

Sec. 19. Section 99F.9, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 20. Section 99F.9, subsection 3, Code 1993, is amended to read as follows:

3. The licensee may receive wagers only from a person present on a licensed excursion gambling boat or in a licensed racetrack enclosure.

Sec. 21. Section 99F.9, subsection 4, Code 1993, is amended to read as follows:

4. The licensee shall exchange the money of each wagerer for tokens, chips, or other forms of credit to be wagered on the gambling games. However, nickels and quarters of legal tender may be used for wagering in lieu of tokens or other forms of credit. The licensee shall exchange the gambling tokens, chips, or other forms of wagering credit for money at the request of the wagerer.

Sec. 22. Section 99F.9, subsections 5 and 7, Code 1993, are amended by striking the subsections.

Sec. 23. Section 99F.9, subsection 6, Code 1993, is amended to read as follows:

6. A person under the age of ~~eighteen~~ twenty-one years shall not make a wager on an excursion gambling boat and shall not be allowed in the area of the excursion boat where gambling is being conducted. However, a person eighteen years of age or older may be employed to work in a gambling area.

Sec. 24. Section 99F.9, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. A licensee shall not accept a credit card as defined in section 537.1301, subsection 16, to purchase coins, tokens, or other forms of credit to be wagered on gambling games.

Sec. 25. Section 99F.11, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A tax is imposed on the adjusted gross receipts received annually from gambling games authorized under this chapter at the rate of five percent on the first one million dollars of adjusted gross receipts, at the rate of ten percent on the next two million dollars of adjusted gross receipts, and at the rate of twenty percent on any amount of adjusted gross receipts over three million dollars. However, beginning January 1, 1997, the rate on any amount of adjusted gross receipts over three million dollars from gambling games at racetrack enclosures is twenty-two percent and shall increase by two percent each succeeding calendar year until the rate is thirty-six percent. The taxes imposed by this section shall be paid by the licensee to the treasurer of state within ten days after the close of the day when the wagers were made and shall be distributed as follows:

Sec. 26. Section 99F.11, subsection 3, Code 1993, is amended to read as follows:

3. ~~Three~~ Five percent of the adjusted gross receipts shall be deposited in the gamblers assistance fund specified in section 99E.10, subsection 1, paragraph "a".

Sec. 27. Section 99F.15, subsection 2, Code 1993, is amended to read as follows:

2. A person knowingly permitting a person under the age of ~~eighteen~~ twenty-one years to make a wager is guilty of a simple misdemeanor.

Sec. 28. Section 99F.15, subsection 3, Code 1993, is amended to read as follows:

3. A person wagering or accepting a wager at any location outside ~~the~~ an excursion gambling boat or a racetrack enclosure is in violation of section 725.7.

Sec. 29. Section 99F.16, subsection 2, Code 1993, is amended to read as follows:

2. ~~All~~ Except for coins authorized in section 99F.9, subsection 4, all moneys, coin, and currency found in close proximity of wagers, or of records of wagers are presumed forfeited. The burden of proof is upon the claimant of the property to rebut this presumption.

Sec. 30. ADDITIONAL GAMBLING REVENUE. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, fifty percent of the gambling revenue received by the state pursuant to chapters 99D and 99F in excess of $11,100,000 shall be credited to the cash reserve fund created in section 8.56. However, of the additional tax revenue received pursuant to this section, the first $299,369 shall be paid to the department of public safety and used for the salaries, support, maintenance, and miscellaneous purposes of five full-time equivalent parimutuel law enforcement agents, including the state's contribution to the peace officers' retirement, accident, and liability system provided in chapter 97A in the amount of eighteen

percent of the officers' salaries. However, the portion of the additional tax revenue received for the gamblers assistance fund shall be used by the department of human services to fund a coordinator and additional staff as needed to develop educational prevention programs and treatment programs for addicted gamblers.

Sec. 31. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved March 31, 1994

CHAPTER 1022

STATE EMPLOYEES DISABILITY INSURANCE PROGRAM

H.F. 2120

AN ACT relating to benefits paid under 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 Supplement 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. As used in this section, "primary and family social security" shall not include social security benefits awarded to a disabled adult child of the disabled state employee who does not reside with the disabled state employee if the social security benefits were awarded to the disabled adult child prior to the approval of the state employee's benefits under this section, regardless of whether the United States social security administration records the benefits to the social security number of the disabled adult child, the disabled state employee, or any other family member, and such social security benefits shall not reduce the benefits payable pursuant to this section. As used in this section, unless the context otherwise requires, "adult" means a person who is eighteen years of age or older. 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 APPLICABLITY DATES. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1990.

Approved March 31, 1994

CHAPTER 1023

NONSUBSTANTIVE CODE CORRECTIONS

H.F. 2124

AN ACT relating to nonsubstantive Code corrections.

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

DIVISION I – RESUBMISSIONS

Section 1. Section 2.100, Code 1993, is amended to read as follows:

2.100 COMPUTER SUPPORT BUREAU.

A computer support bureau is established under the direction and control of the legislative council. The administrative head of the computer support bureau is the director of the bureau. The computer support bureau shall serve the general assembly and the legislative council. The computer support bureau shall also provide services and support for the computer systems used by the legislative staff, the legislative service bureau, the ~~public~~ legislative information office, the Code editor's office, the office of the citizens' aide and the legislative fiscal bureau.

Sec. 2. Section 11.27, Code 1993, is amended to read as follows:

11.27 BIENNIAL REPORT.

The biennial report shall include:

1. A narrative report and such statistical statements as the state auditor deems essential to display the results of audits of the state departments and establishments.

2. ~~Statistics on building and loan associations now required by law to be published biennially. The biennial report shall also include the~~ The results of an audit of the documents and the records of the ~~state comptroller's office~~ department of management created in the budget and financial control Act, which records shall be audited by the auditor; and, the results of the auditor's audit of all taxes and other revenue collected and paid into the treasury, and the sources thereof. ~~This report shall also include the~~

3. The auditor's recommendations to improve the business methods of the government and any other matters having for their purpose to bring about increased economy and efficiency in the conduct of the affairs of the government.

Sec. 3. Section 12C.23, subsection 2, Code 1993, is amended to read as follows:

2. The depository and the security given for the public funds in its hands are liable for payment if the depository fails to pay a check, draft, or warrant drawn by the public officer or to account for a check, draft, warrant, order, or certificates of deposit, or any public funds entrusted to it if, in failing to pay, the depository acts contrary to the terms of an agreement between the depository and the public body treasurer ~~or~~. The depository and the security given for the public funds in its hands are also liable for payment if the depository fails to pay an assessment, by the treasurer of state when the assessment is due.

Sec. 4. Section 15.108, subsection 1, paragraph e, Code Supplement 1993, is amended to read as follows:

e. Administer the funds ~~appropriated from~~ in the community economic betterment program account ~~of the Iowa plan fund for economic development as provided in section 99E.32, subsection 2~~ established within the strategic investment fund as provided in section 15.320.

Sec. 5. Section 24.48, unnumbered paragraph 3, Code 1993, is amended to read as follows:

Upon decision of the state appeal board, the ~~state comptroller~~ department of management shall make the necessary changes in the total budget of the political subdivision and certify the total budget to the governing body of the political subdivision and the appropriate county auditors.

Sec. 6. Section 34.1, subsection 1, Code 1993, is amended by striking the subsection.

Sec. 7. Section 80.25, Code 1993, is amended to read as follows:

80.25 DIVISION OF BEER AND LIQUOR ENFORCEMENT.

The commissioner of public safety shall establish a division of beer and liquor law enforcement and appoint a chief enforcement officer to head the division. The commissioner of public safety shall appoint other agents needed in the division as are necessary to enforce the provisions of ~~chapters~~ chapter 123 ~~and 125~~. All enforcement officers, assistants, and agents of the division, excluding clerical workers, shall be subject to the provisions of section 80.15.

Sec. 8. Section 97B.25, Code 1993, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the ~~administrator~~ chief benefits officer and referred to in this chapter as a retirement benefits specialist, shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid and if valid, the month with respect to which benefits shall commence, the monthly benefit amount payable, and the maximum duration. The retirement benefits specialist shall promptly notify the applicant and any other interested party of the decision and the reasons. Unless the applicant or other interested party, within thirty calendar days after the notification was mailed to the applicant's or party's last known address, files an appeal as provided in section 97B.20A, the decision is final and benefits shall be paid or denied in accord with the decision.

Sec. 9. Section 123.37, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

The power to establish licenses and permits and levy taxes as imposed in ~~chapters~~ chapter 123 ~~and 125~~ is vested exclusively with the state. Unless specifically provided, a local authority shall not require the obtaining of a special license or permit for the sale of alcoholic beverages, wine, or beer at any establishment, or require the obtaining of a license by any person as a condition precedent to the person's employment in the sale, serving, or handling of alcoholic beverages, wine, or beer, within an establishment operating under a license or permit.

Sec. 10. Section 135.1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

For the purposes of chapters 152B, and 155, ~~435,~~ and title IV, subtitle 2, excluding chapters 142B, 145B, and 146, unless otherwise defined:

Sec. 11. Section 135.11, subsection 13, Code Supplement 1993, is amended to read as follows:

13. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125, 152B, and 155, ~~and 435~~ and title IV, subtitle 2, excluding chapters 142B, 145B, and 146 and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 12. Section 147.86, Code 1993, is amended to read as follows:

147.86 PENALTIES.

Any person violating any provision of this or the following chapters of this subtitle, excluding chapters 152B and 152C, except insofar as the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is ~~not~~ otherwise provided, shall be guilty of a serious misdemeanor.

Sec. 13. Section 159.1, Code 1993, is amended to read as follows:

159.1 DEFINITIONS.

For the purposes of ~~chapters 9H, 16A, 352, and 427C and~~ subtitles 1 through 3 of this title, excluding chapters 161A through 161C, unless otherwise provided:

1. "Department" means the department of agriculture and land stewardship and if the department is required or authorized to do an act, unless otherwise provided, the act may be performed by an officer, regular assistant, or duly authorized agent of the department.

2. "Person" ~~shall include~~ includes an individual, a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the

person acting in such capacity shall also be liable for violation of ~~chapters 9H, 16A, 352, and 427C, and~~ subtitles 1 through 3 of this title, excluding chapters 161A through 161C.

3. "Secretary" means the secretary of agriculture.

Sec. 14. Section 159.5, subsection 11, Code 1993, is amended to read as follows:

11. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of ~~chapters 9H, 16A, 352, and 427C and~~ subtitles 1 through 3 of this title, excluding chapters 161A through 161C, and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 15. Section 159.6, subsection 8, Code 1993, is amended to read as follows:

8. Regulation and inspection of foods, drugs, and other articles, as provided in Title V, subtitle 4, but ~~chapters 203 through~~ chapter 205 ~~and 207 and 208~~ of that subtitle shall be enforced as provided in ~~those chapters~~ that chapter.

Sec. 16. Section 161A.43, unnumbered paragraph 2, Code 1993, is amended to read as follows:

A landowner shall not be liable for a claim based upon or arising out of a claim of negligent design or specification, negligent adoption of design or specification, or negligent installation, construction, or reconstruction of a soil and water conservation practice or an erosion control practice that was installed, constructed, or reconstructed in accordance with generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A soil and water conservation practice or an erosion control practice installed, constructed, or reconstructed in compliance with rules adopted by the division and currently in effect shall be deemed to be installed, constructed, or reconstructed according to generally recognized engineering or safety standards, criteria, or design theory in existence at the time of the installation, construction, or reconstruction. A claim shall not be allowed for failure to upgrade, improve, or alter any aspect of an existing soil and water conservation practice or erosion control practice to a new, changed, or altered design standard. This ~~section~~ paragraph does not apply to a claim based on a failure of a landowner to upgrade, improve, or alter a soil and water conservation practice or erosion control practice in violation of law. This ~~section~~ paragraph does not apply to claims based upon gross negligence.

Sec. 17. Section 189.1, unnumbered paragraph 1 and subsections 1 and 6, Code 1993, are amended to read as follows:

For the purpose of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, unless the context otherwise requires:

1. "Article" includes food, commercial feed, agricultural seed, commercial fertilizer, drug, insecticide, fungicide, paint, linseed oil, turpentine, and illuminating oil, in the sense in which they are defined in the various provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

6. "Person" includes a corporation, company, firm, society, or association; and the act, omission, or conduct of any officer, agent, or other person acting in a representative capacity shall be imputed to the organization or person represented, and the person acting in that capacity shall also be liable for violations of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

Sec. 18. Section 189.2, Code 1993, is amended to read as follows:

189.2 DUTIES.

The department shall:

1. Execute and enforce ~~chapter 353 and~~ this subtitle, except chapter 205.

2. Make and publish all necessary rules, not inconsistent with law, for enforcing the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

3. Provide ~~such~~ educational measures and exhibits, and conduct ~~such~~ educational campaigns as are deemed advisable in fostering and promoting the production and sale of the articles dealt with in ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203,

203A, 203C, 203D, 207, and 208, in accordance with the ~~regulations herein prescribed~~ rules adopted pursuant to this subtitle.

4. Issue from time to time, bulletins showing the results of inspections, analyses, and prosecutions under ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208. These bulletins shall be printed in such numbers as may be approved by the superintendent of printing and shall be distributed to the newspapers of the state and to all interested persons.

Sec. 19. Section 189.3, Code 1993, is amended to read as follows:

189.3 PROCURING SAMPLES.

The department shall, for the purpose of examination or analysis, procure from time to time, or whenever ~~said~~ the department has occasion to believe any of the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, are being violated, samples of the articles dealt with in these provisions which have been shipped into this state, offered or exposed for sale, or sold in the state.

Sec. 20. Section 189.4, Code 1993, is amended to read as follows:

189.4 ACCESS TO FACTORIES AND BUILDINGS.

The department shall have full access to all places, factories, buildings, stands, or premises, and to all wagons, auto trucks, vehicles, or cars used in the preparation, production, distribution, transportation, offering or exposing for sale, or sale of any article dealt with in ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

Sec. 21. Section 189.5, Code 1993, is amended to read as follows:

189.5 DEALER TO FURNISH SAMPLES.

Upon request and tender of the selling price by the department any person who prepares, manufactures, offers or exposes for sale, or delivers to a purchaser any article dealt with in ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, shall furnish, within business hours, a sample of the same, sufficient in quantity for a proper analysis or examination as shall be provided by the rules of the department.

Sec. 22. Section 189.6, Code 1993, is amended to read as follows:

189.6 TAKING OF SAMPLES.

The department may, without the consent of the owner, examine or open any package containing, or believed to contain, any article or product which it suspects may be prepared, manufactured, offered, or exposed for sale, sold, or held in possession in violation of the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, in order to secure a sample for analysis or examination, and ~~said~~ the sample and damage to container shall be paid for at the current market price out of the contingent fund of the department.

Sec. 23. Section 189.8, Code 1993, is amended to read as follows:

189.8 WITNESSES.

In the enforcement of the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, the department shall have power to issue subpoenas for witnesses, enforce their attendance, and examine them under oath. ~~Such~~ The witnesses shall be allowed the same fees as witnesses in district court. ~~Said~~ The fees shall be paid out of the contingent fund of the department.

Sec. 24. Section 189.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

All articles in package or wrapped form which are required by ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, to be labeled, unless otherwise provided, shall be conspicuously marked in the English language in legible letters of not less than eight-point heavy gothic caps on the principal label with the following items:

Sec. 25. Section 189.13, Code 1993, is amended to read as follows:

189.13 FALSE LABELS — DEFACEMENT.

~~No~~ A person shall not use any label required by ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, which bears any representations of any kind which are deceptive as to the true character of the article or the place of its production, or which has been carelessly printed or marked, nor shall any person erase or deface any label required by ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

Sec. 26. Section 189.14, subsection 1, Code 1993, is amended to read as follows:

1. ~~No~~ A person shall not knowingly introduce into this state, solicit orders for, deliver, transport, or have in possession with intent to sell, any article which is labeled in any other manner than that prescribed by ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, for the label of ~~said~~ the article when offered or exposed for sale, or sold in package or wrapped form in this state.

Sec. 27. Section 189.15, Code 1993, is amended to read as follows:

189.15 ADULTERATED ARTICLES.

~~No~~ A person shall not knowingly manufacture, introduce into the state, solicit orders for, sell, deliver, transport, have in possession with the intent to sell, or offer or expose for sale, any article which is adulterated according to the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

Sec. 28. Section 189.16, Code 1993, is amended to read as follows:

189.16 POSSESSION.

Any person having in possession or under control any article which is adulterated or which is improperly labeled according to the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, shall be presumed to know its true character and name, and such possession shall be ~~prima facie~~ prima facie evidence of having the same in possession with intent to violate the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208.

Sec. 29. Section 189.19, Code 1993, is amended to read as follows:

189.19 LICENSES.

The following ~~regulations shall~~ provisions apply to all licenses issued or authorized under ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208:

1. APPLICATIONS. Applications for licenses shall be made upon blanks furnished by the department and shall conform to the prescribed rules of the department.

2. REFUSAL AND REVOCATION. For good and sufficient grounds the department may refuse to grant a license to any applicant; and it may revoke a license for a violation of any provision of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, or for the refusal or failure of any licensee to obey the lawful directions of the department.

3. EXPIRATION. Unless otherwise provided all licenses shall expire one year from the date of issue.

Sec. 30. Section 189.20, Code 1993, is amended to read as follows:

189.20 INJUNCTION.

Any person engaging in any business for which a license is required by ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, without obtaining such license, may be restrained by injunction, and shall pay all costs made necessary by such procedure.

Sec. 31. Section 189.21, Code 1993, is amended to read as follows:

189.21 PENALTY.

Unless otherwise provided, any person violating any provision of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, or any rule ~~made~~ adopted by the department ~~and promulgated under the authority of said department~~ pursuant to such a provision, ~~shall be~~ is guilty of a simple misdemeanor.

Sec. 32. Section 189.22, Code 1993, is amended to read as follows:

189.22 MAY CHARGE MORE THAN ONE OFFENSE.

In any criminal proceeding brought for violation of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, an information or indictment may charge as many offenses as it appears have been committed and the defendant may be convicted of any or all of ~~said~~ the offenses.

Sec. 33. Section 189.23, Code 1993, is amended to read as follows:

189.23 COMMON CARRIER.

~~None of the~~ The penalties provided in ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, shall not be imposed upon any common carrier for introducing into the state, or having in its possession, any article which is adulterated or improperly labeled according to the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, when the same was received by ~~said~~ the carrier for transportation in the ordinary course of its business and without actual knowledge of its true character.

Sec. 34. Section 189.24, Code 1993, is amended to read as follows:

189.24 REPORT OF VIOLATIONS.

When it ~~shall appear~~ appears that any of the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, have been violated, the department shall at once certify the facts to the proper county attorney, with a copy of the results of any analysis, examination, or inspection ~~said~~ the department may have made, duly authenticated by the proper person under oath, and with any additional evidence which may be in possession of ~~said~~ the department.

Sec. 35. Section 189.25, Code 1993, is amended to read as follows:

189.25 COUNTY ATTORNEY.

The county attorney may at once institute the proper proceedings for the enforcement of the penalties provided in ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle for ~~such~~ the violations.

Sec. 36. Section 189.27, Code 1993, is amended to read as follows:

189.27 INSTITUTION OF PROCEEDINGS.

In any case when it appears that any of the provisions of ~~chapters 124, 124A, 124B, 126, and 353, and~~ this subtitle have been violated, the inspector having the investigation in charge shall, when instructed by the department, file an information against the suspected party.

Sec. 37. Section 189.28, Code 1993, is amended to read as follows:

189.28 GOODS FOR SALE IN OTHER STATES.

Any person may keep articles specifically set apart in the person's stock for sale in other states which do not comply with the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, as to standards, purity, or labeling.

Sec. 38. Section 189.29, Code 1993, is amended to read as follows:

189.29 REPORTS BY DEALERS.

Every person who deals in or manufactures any of the articles dealt with in ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, excluding chapters 203, 203A, 203C, 203D, 207, and 208, shall make upon blanks furnished by the department such reports and furnish such statistics as may be required by ~~said~~ the department and certify to the correctness of the same.

Sec. 39. Section 189.30, Code 1993, is amended to read as follows:

189.30 CONTRACTS INVALID.

No action shall be maintained in any of the courts of the state upon any contract or sale made in violation of or with the intent to violate any provision of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle by one who was knowingly a party thereto.

Sec. 40. Section 189.31, Code 1993, is amended to read as follows:

189.31 FEES PAID INTO STATE TREASURY.

All fees collected under the provisions of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, shall be paid into the state treasury.

Sec. 41. Section 190.1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

For the purpose of ~~chapters 124, 124A, 124B, 126, and 353 and~~ this subtitle, except chapters 192, 203, 203A, 203C, 203D, 207, and 208, the following definitions and standards of food are established:

Sec. 42. Section 216.2, subsection 4, paragraph b, Code 1993, is amended to read as follows:

b. The ground floor units of a building consisting of four or more dwelling units.

Sec. 43. Section 235A.15, subsection 2, paragraph e, subparagraph (3), Code Supplement 1993, is amended to read as follows:

(3) To the department of justice for the sole purpose of the filing of a claim for ~~reparation~~ restitution or compensation pursuant to section 910A.5 and section 912.4, subsections 3 through 5.

Sec. 44. Section 257.16, unnumbered paragraph 2, Code 1993, is amended to read as follows:

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on or about June 15 of the budget year as determined by the department of management, taking into consideration the relative budget and cash position of the state resources. However, an amount of state school foundation aid equal to the general allocation of the school district as determined under section 405A.2 and the amount of the tax credit for livestock pursuant to section 442.2, subsection 2, as it appeared in the 1987 Code, shall be paid to the school district on July 15 of the subsequent fiscal year, and the appropriation for this amount shall be made for the fiscal year during which the payment is made. ~~However, the state aid paid to school districts under section 257.13 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year.~~

Sec. 45. Section 257B.11, Code 1993, is amended to read as follows:

257B.11 SCHOOL FUND ACCOUNTS — AUDIT OF LOSSES.

The director of revenue and finance shall keep the permanent school fund accounts in books provided for that purpose, separate and distinct from the revenue books. The auditor of state shall audit losses to the permanent school or university fund caused by ~~the~~ defalcation, mismanagement, or fraud. The auditor of state shall adopt rules pursuant to chapter 17A ~~for those officers~~ as necessary to ascertain the losses.

Sec. 46. Section 257C.9, subsections 3 and 4, Code 1993, are amended to read as follows:

3. Subject to a contract with bondholders, and to the approval of the ~~state comptroller~~ director of revenue and finance, the authority shall prescribe a system of accounts.

4. The authority shall submit to the governor, the auditor of state, the department of management, and the ~~state comptroller~~ department of revenue and finance, within thirty days of its receipt, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of examinations made by the auditor of state.

Sec. 47. Section 357F.4, Code 1993, is amended to read as follows:

357F.4 TIME OF HEARING.

The public hearing required in section 357F.2 shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication in two successive issues of any ~~paper~~ newspaper of general circulation within the district. The last publication shall be not less than one week before the proposed hearing.

Sec. 48. Section 421.7, subsection 1, Code 1993, is amended to read as follows:

1. Except where a different rate of interest is stated in a provision of ~~chapters 12B, 12C, and 257C and~~ this title, the rate of interest on interest-bearing obligations arising under ~~chapters 12B, 12C, and 257C and~~ this title shall be the rate of interest in effect under this section.

Sec. 49. Section 422.45, subsection 28, Code Supplement 1993, is amended by striking the subsection.

Sec. 50. Section 422.45, subsection 33, paragraph b, Code Supplement 1993, is amended by striking the paragraph.

Sec. 51. Section 422.73, subsections 3, 4, 5, 6, and 7, Code 1993, are amended by striking the subsections.

Sec. 52. Section 423.25, Code 1993, is amended to read as follows:

423.25 TAXATION IN ANOTHER STATE.

If any person who causes tangible personal property to be brought into this state has already paid a tax in another state in respect to the sale or use of ~~such~~ the property, or an occupation tax in respect ~~thereto~~ to the property, in an amount less than the tax imposed by ~~chapters 12B, 12C, and 257C and~~ this title, the provisions of ~~chapters 12B, 12C, and 257C and~~ this title shall apply, but at a rate measured by the difference only between the rate ~~herein~~ fixed in this title and the rate by which the previous tax on the sale or use, or the occupation tax, was computed. If ~~such~~ the tax imposed and paid in ~~such~~ the other state is equal to or more than the tax imposed by ~~chapters 12B, 12C, and 257C and~~ this title, then no tax ~~shall be~~ is due in this state on ~~such~~ the personal property.

Sec. 53. Section 428.20, Code 1993, is amended to read as follows:

428.20 DEFINITION OF MANUFACTURER.

A person who purchases, receives, or holds personal property of any description for the purpose of adding to its value by a process of manufacturing, refining, purifying, combining of different materials, or by the packing of meats, with a view to selling the property for gain or profit, is a "manufacturer" for the purposes of ~~chapters 12B, 12C, and 257C and~~ this title.

Sec. 54. Section 443.19, Code 1993, is amended to read as follows:

443.19 IRREGULARITIES, ERRORS AND OMISSIONS — EFFECT.

No failure of the owner to have such property assessed or to have the errors in the assessment corrected, and no irregularity, error or omission in the assessment of such property, shall affect in any manner the legality of the taxes levied thereon, or affect any right or title to such real estate which would have accrued to any party claiming or holding under and by virtue of a deed executed by the treasurer as provided by ~~chapters 12B, 12C, and 257C and~~ this title, had the assessment of such property been in all respects regular and valid.

Sec. 55. Section 455B.305A, subsections 5, 7, and 8, Code Supplement 1993, are amended to read as follows:

5. At least one public hearing shall be held by the city council or county board of supervisors no sooner than ninety days but no later than one hundred twenty days from receipt of the request for siting approval. A hearing shall be preceded by published notice in an official newspaper of the county of the proposed site, including in any official newspaper located in the city of the proposed site. ~~The public hearing shall develop a record sufficient to form the basis of an appeal of the decision.~~

7. Construction of a project which is granted local siting approval under this section shall commence within one calendar year from the date upon which it was granted or the permit shall be nullified. ~~If the local siting decision is appealed, the one-year period shall begin on the date upon which the appeal process is concluded.~~

8. The local siting approval, criteria, and ~~appeal~~ other procedures provided for in this section ~~and in section 455B.305B~~ are the exclusive local siting procedures ~~and appeal procedures~~. Local zoning, ordinances, or other local land use requirements may be considered in such siting decisions.

Sec. 56. Section 455D.11A, subsection 4, Code 1993, is amended to read as follows:

4. If the owner or operator of a waste tire collection or processing site chooses to provide financial assurance in the form of a surety bond, the bond shall be executed by a surety company authorized to do business in this state. The bond shall be continuous in nature until canceled by the surety. A surety shall provide at least ninety days' notice in writing to the owner or operator and to the department indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon compliance with this section. The surety's liability under this subsection is limited to the amount of the bond or the amount of the damages or moneys due, whichever is less. However, this subsection does not limit the amount of damages recoverable from an owner or operator ~~in~~ to the amount of the surety bond. ~~This subsection shall not limit the recovery of damages to the surety bond.~~ The bond shall be made in a form prescribed by the commissioner of insurance and written by a company authorized by the commissioner of insurance to do business in this state. If a surety bond is canceled which has been provided as financial assurance under this subsection, the owner or operator of the waste tire collection or processing site shall demonstrate to the department within thirty days of the cancellation, a means of continued compliance with the financial assurance requirements of this section. If a means of continued compliance is not demonstrated within the thirty-day period, the department shall suspend the permit for the site, and the owner or operator shall perform proper closure of the site within thirty days. If the owner or operator does not properly close the site within the time period allowed, the department shall file a claim with the surety company, prior to the effective date of cancellation of the bond, to collect the amount of the bond for use in performing proper closure. A person who fails to provide for proper closure, notwithstanding collection by the department of the amount of the bond, is guilty of a serious misdemeanor.

Sec. 57. Section 477C.5, Code 1993, is amended to read as follows:

477C.5 DUAL PARTY RELAY ~~SERVICE~~ COUNCIL.

1. A dual party relay ~~service~~ council is established, consisting of eleven members appointed by the board. The council shall advise the board on all matters concerning relay service and equipment distribution programs.

2. The council shall consist of:

a. Six consumers who have communication impairments.

b. Two representatives from telephone companies.

c. One representative from the division of deaf services of the department of human rights.

d. One representative from the office of the consumer advocate of the department of justice.

e. One member of the board or a designee of the board.

3. Council members who are not state or local government officers or employees shall be reimbursed for their necessary and actual expenses incurred in performance of their duties and shall receive a per diem of fifty dollars when the council is meeting, payable from moneys available to the board pursuant to section 477C.7.

Sec. 58. Section 483A.24, subsections 1 and 13, Code 1993, are amended to read as follows:

1. Owners or tenants of land, and their juvenile children, may hunt, fish or trap upon such lands and may shoot by lawful means ground squirrels, gophers, or woodchucks upon adjacent roads without securing a license so to do; except, special licenses to hunt deer and wild turkey

shall be required of owners and tenants but they shall not be required to have a special wild turkey hunting license to hunt wild turkey on a ~~game breeding and shooting~~ hunting preserve licensed under chapter 484B.

13. No person shall be required to have a special wild turkey license to hunt wild turkey on a ~~game breeding and shooting~~ hunting preserve licensed under chapter 484B.

Sec. 59. Section 490A.1404, subsection 1, Code 1993, is amended to read as follows:

1. The foreign limited liability company shall add the words "Limited Company" or the abbreviation "L.C." to its name for use in this state.

Sec. 60. Section 490A.1406, subsection 1, paragraph e, Code Supplement 1993, is amended to read as follows:

e. A commitment to notify the secretary of state in the future of any change in the mailing address of the foreign limited liability company.

Sec. 61. Section 490A.1407, subsection 2, paragraph d, Code Supplement 1993, is amended to read as follows:

d. Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability company's own securities or maintaining trustees or depositories with respect to those securities.

Sec. 62. Section 497.34, Code 1993, is amended to read as follows:

497.34 INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in ~~section 496A.4A~~ sections 490.850 through 490.858, provided that where ~~section 496A.4A provides~~ sections 490.850 through 490.858 provide for action by shareholders the ~~section is~~ sections are applicable to action by voting members of the cooperative association, and where ~~section 496A.4A refers~~ sections 490.850 through 490.858 refer to the corporation organized under chapter ~~496A~~ 490 the ~~section is~~ sections are applicable to the cooperative association organized under this chapter, and where ~~section 496A.4A refers~~ sections 490.850 through 490.858 refer to the director the ~~section is~~ sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 63. Section 498.36, Code 1993, is amended to read as follows:

498.36 INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in ~~section 496A.4A~~ sections 490.850 through 490.858, provided that where ~~section 496A.4A provides~~ sections 490.850 through 490.858 provide for action by shareholders the ~~section is~~ sections are applicable to action by voting members of the cooperative association, and where ~~section 496A.4A refers~~ sections 490.850 through 490.858 refer to the corporation organized under chapter ~~496A~~ 490 the ~~section is~~ sections are applicable to the cooperative association organized under this chapter, and where ~~section 496A.4A refers~~ sections 490.850 through 490.858 refer to the director the ~~section is~~ sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 64. Section 499.36, subsection 6, Code 1993, is amended to read as follows:

6. Unless the articles of incorporation or bylaws provide otherwise, an action required or permitted by this chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and filed with the corporate records reflecting the action taken. An action taken under this ~~section~~

subsection is effective when the last director signs the consent, unless the consent specifies a different effective date. A consent signed under this ~~section~~ subsection is deemed to have the same effect as a meeting vote and may be described as such in any document.

Sec. 65. Section 499.59A, Code 1993, is amended to read as follows:

499.59A INDEMNIFICATION.

A cooperative association operating under this chapter may indemnify any present or former director, officer, employee, member, or volunteer in the manner and in the instances authorized in ~~section 496A.4A~~ sections 490.850 through 490.858, provided that where ~~section 496A.4A provides~~ sections 490.850 through 490.858 provide for action by shareholders the ~~section is~~ sections are applicable to action by voting members of the cooperative association, and where ~~section 496A.4A refers~~ sections 490.850 through 490.858 refer to the corporation organized under chapter ~~496A~~ 490 the ~~section is~~ sections are applicable to the cooperative association organized under this chapter, and where ~~section 496A.4A refers~~ sections 490.850 through 490.858 refer to the director the ~~section is~~ sections are applicable to a director, officer, employee, member, or volunteer of the cooperative association organized under this chapter.

Sec. 66. Section 504A.28, Code 1993, is amended to read as follows:

504A.28 INCORPORATORS.

One or more persons as defined in this chapter having capacity to contract, may act as incorporators of a corporation by signing, ~~acknowledging~~ and delivering to the secretary of state articles of incorporation for ~~such~~ the corporation.

Sec. 67. Section 524.1213, subsection 2, Code 1993, is amended to read as follows:

2. A united community bank office formed under this section shall have a united community bank office board, at least one-half or more of the members of which shall be residents of the county in which the united community bank office is located. The liability of the united community bank office board shall be limited as provided in section 524.614. The bank establishing and operating the united community bank office may indemnify members of the united community bank office board as agents of the bank in the manner and in the instances authorized by ~~section 496A.4A~~ sections 490.850 through 490.858.

Sec. 68. Section 536A.2, subsection 5, Code 1993, is amended by striking the subsection.

Sec. 69. Section 702.11, Code 1993, is amended to read as follows:

702.11 FORCIBLE FELONY.

A "forcible felony" is any felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree. However, sexual abuse in the third degree committed between spouses, sexual abuse in violation of section 709.4, subsection 2, paragraph "c", subparagraph (4), or sexual ~~abuse~~ exploitation by a counselor or therapist in violation of section 709.15, is not a "forcible felony".

Sec. 70. Section 714.8, subsection 12, Code 1993, is amended to read as follows:

12. Knowingly transfers or assigns a legal or equitable interest in property, as defined in section 702.14, for less than fair consideration, with the intent to obtain public assistance under chapters 16, 35B, 35D, and 347B, ~~709A, 904, 913, and 914,~~ or title VI, subtitles 2 through 6, or accepts a transfer of or an assignment of a legal or equitable interest in property, as defined in section 702.14, for less than fair consideration, with the intent of enabling the party transferring the property to obtain public assistance under chapters 16, 35B, 35D, and 347B, ~~709A, 904, 913, and 914,~~ or title VI, subtitles 2 through 6. A transfer or assignment of property for less than fair consideration within one year prior to an application for public assistance benefits shall be evidence of intent to transfer or assign the property in order to obtain public assistance for which a person is not eligible by reason of the amount of the person's assets. If a person is found guilty of a fraudulent practice in the transfer or assignment of property under this subsection the maximum sentence shall be the penalty established for a serious misdemeanor and sections 714.9, 714.10 and 714.11 shall not apply.

Sec. 71. Section 901.1, Code 1993, is amended to read as follows:

901.1 SHORT TITLE.

Chapters 901 to 909~~, excluding chapter 904,~~ shall be known and may be cited as the "Iowa Corrections Code."

Sec. 72. Section 904.802, subsection 2, Code 1993, is amended to read as follows:

2. "Iowa state industries" means prison industries that are established and maintained by the Iowa department of corrections, in consultation with the industries board, at or adjacent to the state's adult correctional institutions, except that an inmate work program established by the state director under section ~~904.805, subsection 7~~ 904.703 is not restricted to industries at or adjacent to the institutions.

Sec. 73. Section 904.808, subsection 3, Code 1993, is amended to read as follows:

3. A department or agency of the state shall cooperate and enter into agreements, if possible, for the provision of products and services under an inmate work program established by the state director under section ~~904.805, subsection 7~~ 904.703.

DIVISION II – NEW SUBMISSIONS

Sec. 74. Section 16.62, subsection 1, Code 1993, is amended to read as follows:

1. The authority shall initiate a program to assist the development and expansion of small business in Iowa. The authority may issue bonds and notes the proceeds of which shall be used to make program loans. ~~The principal amount of bonds and notes that may be issued pursuant to the loan program and the principal amount of the bonds and notes issued which shall be counted as a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time are as provided in section 16.26, subsection 1.~~ Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

Sec. 75. Section 16.71, Code 1993, is amended to read as follows:

16.71 RESIDENTIAL MORTGAGE MARKETING PROGRAM.

The authority shall establish a program to assist lenders to sell residential mortgage loans in the organized and unorganized secondary mortgage market. The authority may issue taxable and tax-exempt bonds and notes. The proceeds of the bonds shall be used to purchase residential mortgage loans from lenders. ~~The bonds and notes are a portion of the total principal amount of bonds and notes of the authority which may be outstanding at any time pursuant to section 16.26, subsection 1.~~ Bonds and notes issued under this section are subject to all provisions of this chapter relating to the issuance of bonds.

Sec. 76. Section 22.7, subsection 30, Code Supplement 1993, is amended to read as follows:

30. 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 section 68B.31 ~~or 68B.32~~ is not a confidential record unless otherwise provided by law.

Sec. 77. Section 43.18, unnumbered paragraph 5, Code 1993, is amended to read as follows:

I am aware that I am required to organize a candidate's committee which shall file an organization statement and disclosure reports if my committee or I receive contributions, make expenditures, or incur indebtedness in excess of ~~two hundred fifty~~ five hundred dollars for the purpose of supporting my candidacy for public office. This paragraph does not apply to candidates for federal offices.

.....

(Signed)

Sec. 78. Section 44.3, subsection 2, unnumbered paragraph 7, Code 1993, is amended to read as follows:

I am aware that I am required to organize a candidate's committee which shall file an organization statement and disclosure reports if my committee or I receive contributions, make expenditures, or incur indebtedness in excess of ~~two hundred fifty~~ five hundred dollars for the purpose of supporting my candidacy for public office. This paragraph does not apply to candidates for federal offices.

Sec. 79. Section 45.3, unnumbered paragraph 8, Code 1993, is amended to read as follows:

I am aware that I am required to organize a candidate's committee which shall file an organization statement and disclosure reports if my committee or I receive contributions, make expenditures, or incur indebtedness in excess of ~~two hundred fifty~~ five hundred dollars for the purpose of supporting my candidacy for public office. This paragraph does not apply to candidates for federal offices.

Sec. 80. Section 56.2, subsection 5, Code Supplement 1993, is amended by striking the subsection.

Sec. 81. Section 56.5A, Code Supplement 1993, is amended to read as follows:

56.5A CANDIDATE'S COMMITTEE.

Each candidate for federal, state, 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~~ five hundred dollars in the aggregate in a calendar year.

Sec. 82. Section 68B.35A, Code Supplement 1993, is amended to read as follows:

68B.35A PERSONAL FINANCIAL DISCLOSURE STATEMENTS OF STATE OFFICIALS AND EMPLOYEES — PUBLIC ACCESS.

Personal financial disclosure statements filed with the board, and the chief clerk of the house, ~~and the~~ secretary of the senate, or other appropriate person or body 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, and the chief clerk of the house, ~~and the~~ secretary of the senate, or other appropriate person or body.

Sec. 83. Section 68B.36, subsections 2, 4, and 5, Code Supplement 1993, are amended to read as follows:

2. Registration shall be valid from the date of registration until the expiration of the registration period for the type of lobbying in which the person will be engaging. Any change in or addition to the information shall be registered within ten days after the change or addition is known to the lobbyist. Changes or additions for executive branch lobbyists ~~may~~ shall be filed ~~either~~ with the ~~executive council or with the agency or office where the original registration was filed~~ board. Changes or additions for registrations of lobbyists of the general assembly shall be filed with either the chief clerk of the house or the secretary of the senate.

4. If a lobbyist's service on behalf of a particular employer, client, or cause is concluded prior to the end of the calendar year, the lobbyist may cancel the registration on appropriate forms supplied by the ~~executive council~~ board, the chief clerk of the house, or the secretary of the senate. The cancellation forms shall be filed by the lobbyist in the place where the lobbyist filed the original registration. ~~Persons within the executive branch receiving forms canceling a lobbyist's registration shall forward the forms to the executive council.~~ Upon cancellation of registration, a lobbyist is prohibited from engaging in any lobbying activity on behalf of that particular employer, client, or cause until reregistering and complying with the rules of the ~~executive council~~ board or the general assembly.

5. All federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies shall, when lobbying the general assembly, present to the chief clerk of the house or the secretary of the senate a letter of authorization from their department or agency heads prior to the commencement of their lobbying. When lobbying a state agency or the office of the governor, the letter shall be presented to the ~~agency or office~~ board. The lobbyist registration statement of these officials and employees shall not be deemed complete until the letter of authorization is attached. Federal, state, and local officials who wish to lobby in opposition to the official position of their departments, commissions, boards, or agencies must indicate this on their lobbyist registration statements.

Sec. 84. Section 88.5, subsection 12, Code Supplement 1993, is amended to read as follows:

12. RAILWAY SANITATION AND SHELTER. 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. 85. Section 123.36, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

The following fees shall be paid to the division annually for ~~special liquor permits and~~ liquor control licenses issued under ~~sections 123.29 and~~ section 123.30 ~~respectively~~:

Sec. 86. Section 137.19, Code 1993, is amended to read as follows:

137.19 EMERGENCY REQUEST FOR FUNDS.

A local board may, in emergency situations, request additional appropriations, which may, upon approval of the ~~commissioner~~ director, be allotted from the funds reserved for that purpose. On termination of the emergency situation, the local board shall report its expenditures of emergency funds, to the ~~commissioner~~ director and return any unexpended funds.

Sec. 87. Section 141.23, subsection 1, paragraph i, Code Supplement 1993, is amended to read as follows:

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~~ third degree of consanguinity.

Sec. 88. Section 235.1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The terms "state division", "administrator", ~~"county department", "county board"~~ and "child" are used in this chapter and chapter 238 as the terms are defined in section 234.1.

Sec. 89. Section 249A.6, subsections 1, 2, and 4, Code Supplement 1993, are amended to read as follows:

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 shall have a lien, to the extent of those payments, ~~to~~ upon 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 under this section does not defeat the department's lien except pursuant to the written agreement of the director or the director's designee. 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 lien if there is any recovery on the recipient's claim.

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~~ upon which the department 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.

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~~ upon which the department has a lien under this section, upon the receipt of 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 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 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~~ upon which the department 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.

Sec. 90. Section 255.15, Code 1993, is amended to read as follows:

255.15 DUTY OF ADMITTING PHYSICIAN AT HOSPITAL.

The authorities in control of the medical college shall designate some physician to pass upon the admission of ~~such~~ the patient, and it shall be the physician's duty to receive ~~such~~ the patient into the hospital and to provide for the patient, if available, a cot, bed, or room in ~~said~~ the hospital, and to assign the patient to the appropriate clinic and for treatment by the proper physician, unless, in the physician's judgment, the presence of the patient in the hospital would be dangerous to other patients, or there is no reasonable probability that the patient may be benefited by the proposed treatment or hospital care. If the admitting physician ~~shall deny~~ denies admission to the patient, the physician shall make a report ~~in duplicate~~ of the reasons ~~therefor~~ for the denial.

Sec. 91. Section 255.17, Code 1993, is amended to read as follows:

255.17 REPORT OF PHYSICIAN IN CHARGE OF CLINIC.

If the physician or surgeon in charge of ~~said~~ the clinic, or to whom ~~such~~ the patient has been assigned for treatment, declines to treat ~~such~~ the patient, the physician or surgeon shall make a report ~~in duplicate~~ of the physician's or surgeon's examination of ~~such~~ the patient, and state ~~therein~~ in the report the reasons for declining ~~such~~ the treatment.

Sec. 92. Section 256.1, subsections 2, 3, and 4, Code Supplement 1993, are amended to read as follows:

2. ~~Stimulate~~ The department shall 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 department shall meet the informational needs of the three branches of state government.

4. ~~Provide~~ The department shall provide for the improvement of library services to all Iowa citizens and foster development and cooperation among libraries.

Sec. 93. Section 257.2, subsection 12, Code 1993, is amended to read as follows:

12. "State percent of growth" means a the percent of ~~economic~~ growth ~~determined under this chapter~~ which is ~~based upon an averaging of state and federal growth indicators~~ established by statute pursuant to section 257.8, and which is used in determining the allowable growth.

Sec. 94. Section 260C.57, Code 1993, is amended to read as follows:

260C.57 AUTHORIZATION — CONTRACTS — TITLE.

Subject to and in accordance with the provisions of this division, the board of ~~trustees~~ directors of each community college is hereby authorized to undertake and carry out any project at a community college under the board's control and to operate, control, maintain, and manage student residence halls and dormitories, including dining and other incidental facilities, and additions to such buildings at each of said institutions. All contracts for the construction, reconstruction, completion, equipment, improvement, repair or remodeling of any buildings, additions or facilities shall be let in accordance with the provisions of section 260C.19. The title to all real estate acquired under the provisions of this division and the improvements erected on the real estate shall be taken and held in the name of the merged area. The board is authorized to rent the rooms in such residence halls and dormitories to the students, officers, guests and employees of the institutions at such rates, fees or rentals as will provide a reasonable return upon the investment, but which will in any event produce net rents, profits and income sufficient to insure the payment of the principal of and interest on all bonds or notes issued to pay any part of the cost of any project and refunding bonds or notes issued pursuant to the provisions of this division and to insure that no property tax revenues will be needed to retire the bonds or notes.

Sec. 95. Section 260C.59, Code 1993, is amended to read as follows:

260C.59 RATES AND TERMS OF BONDS OR NOTES.

The bonds or notes may bear a date or dates, may bear interest at such rate or rates, may mature at such time or times, may be in such form, carry such registration privileges, may be payable at such place or places, may be subject to such terms of redemption prior to maturity with or without premium, if so stated on the face of the bonds, and may contain any terms and covenants as may be provided by the resolution of the board authorizing the issuance of the bonds or notes. In addition to the estimated cost of construction, the cost of the project shall be deemed to include interest upon the bonds or notes during construction and for six months after the estimated completion date, the compensation of a fiscal agent or adviser, any underwriter discount, and engineering, administrative and legal expenses. The bonds or notes shall be executed by the president of the board of ~~trustees~~ directors and attested by the secretary. Any bonds or notes bearing the signatures of officers in office on the date of the signing shall be valid and binding for all purposes, notwithstanding that before delivery of the bonds or notes any or all persons whose signatures appear on the bonds or notes shall have ceased to be officers. Each bond or note shall state upon its face the name of the institution on behalf of which it is issued, that it is payable solely and only from the net rents, profits and income derived from the operation of residence halls or dormitories, including dining and other incidental facilities, at the institution named, and that it does not constitute a charge against the state of Iowa within the meaning or application of any constitutional or statutory limitation or provision. The issuance of bonds or notes shall be recorded in the office of the treasurer of the institution on behalf of which the bonds or notes are issued, and a certificate by such treasurer to this effect shall be printed on the back of each such bond or note.

Sec. 96. Section 260C.65, Code 1993, is amended to read as follows:

260C.65 FEDERAL OR OTHER AID ACCEPTED.

The board of ~~trustees~~ directors of each community college may apply for and accept federal aid or nonfederal gifts or grants of funds, and may use the aid, gifts, or funds to pay all or any part of the cost of carrying out any project at any institution under the terms of this division or to pay any bonds and interest on the bonds issued for any of the purposes specified in this division.

Sec. 97. Section 260C.66, Code 1993, is amended to read as follows:

260C.66 REPORTS TO GENERAL ASSEMBLY.

The board of ~~trustees~~ directors of each community college shall determine, in consultation with the legislative fiscal bureau, the financial information to be included in line item budget information for projects funded by the issuance of bonds or notes under this chapter and shall submit the line item budget information to the general assembly as requested. The board of ~~trustees~~ directors of each community college shall submit quarterly reports to the general assembly concerning the projects funded by the issuance of bonds or notes under this chapter as follows:

1. Identification of both undercharges and overcharges for line items of projects.
2. Identification of contracts in which any line item for a project exceeds the adopted budget for that line item by ten percent or more.
3. Identification of complaints received by an institution regarding the construction of a project.

If the board of ~~trustees~~ directors of a community college approves a change in the amount of the line item of a budget for a project, the change shall be transmitted to the appropriations committees of the house of representatives and senate, while the general assembly is in session, and to the legislative council, when the general assembly is not in session, for review.

Sec. 98. Section 260C.67, Code 1993, is amended to read as follows:

260C.67 ALTERNATIVE METHOD.

This division shall be construed as providing an alternative and independent method for carrying out any project at any institution under the control of a community college board of ~~trustees~~ directors, for the issuance and sale or exchange of bonds or notes in connection with a project and for refunding bonds or notes pertinent to the project, without reference to any other statute, and shall not be construed as an amendment of or subject to the provisions of any other law, and no publication of any notice, whether under section 73A.12 or otherwise, and no other or further proceeding in respect to the issuance or sale or exchange of bonds or notes under this division, shall be required except as prescribed by this division, any provisions of other statutes of the state to the contrary notwithstanding.

Sec. 99. Section 260C.70, Code 1993, is amended to read as follows:

260C.70 TEN-YEAR PROGRAM AND TWO-YEAR BONDING ESTIMATE SUBMITTED EACH YEAR.

The board of ~~trustees~~ directors of each community college shall prepare and submit to the general assembly, the governor, and the department of education a proposed ten-year building program for each institution under the board's control, including an estimate of the maximum amount of bonds which the board expects to issue under the provisions of this chapter during each year of the ensuing biennium. The program and estimate shall be submitted no later than seven days after the convening of each regular annual session of the general assembly. Before a board of ~~trustees~~ directors can proceed with a project in the building program, the project must be approved by the state board for community colleges, and be a project designed for special programs, special needs of special students, and to meet needs for which privately owned housing is not available. The building program shall contain a list of the buildings and facilities which are designed to meet the special needs of students attending special programs. The list shall be revised annually, but no project shall be eliminated from the list when bonds have previously been issued by the board to pay the cost of the project. Each list shall contain an estimate of the cost of each of the buildings and facilities referred to on the list.

Sec. 100. Section 275.1, subsection 2, Code Supplement 1993, is amended to read as follows:

2. "Initial board" means the board of a newly reorganized district that is selected pursuant to section 275.25 or ~~274.41~~ 275.41 and functions until the organizational meeting following the fourth regular school election held after the effective date of the reorganization.

Sec. 101. Section 294A.25, subsection 8, Code Supplement 1993, is amended to read as follows:

8. 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~~ systemic 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. 102. Section 312.2, subsection 19, Code Supplement 1993, is amended to read as follows:

19. 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, shall 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, reconstruction, replacement, or realignment based on needs in accordance with rules adopted by the department.

b. 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, shall credit from the road use tax fund five hundred thousand dollars to the city bridge construction fund, which is hereby created. Moneys credited to the city bridge construction fund shall be allocated to cities by the department for bridge construction and reconstruction based on needs in accordance with rules adopted by the department.

Sec. 103. Section 312.3, subsection 1, Code Supplement 1993, is amended by adding the following new paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this subsection, "latest quadrennial need study report" includes the annual recalculation of construction and maintenance needs of roads whose jurisdiction has been transferred from the department to a county or from a county to the department during the previous year as recalculated pursuant to section 307A.2, subsection 14A.

Sec. 104. Section 321.291, Code Supplement 1993, is amended to read as follows:

321.291 INFORMATION OR NOTICE.

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

Sec. 105. Section 331.602, subsection 29, Code 1993, is amended by striking the subsection.

Sec. 106. Section 331.756, subsections 15 and 64B, Code Supplement 1993, are amended to read as follows:

15. Review the report and recommendations of the ~~independent~~ ethics and campaign ~~finance~~ disclosure board and proceed to institute the recommended actions or advise the board that prosecution is not merited, as provided in ~~section~~ sections 68B.32C and 68B.32D.

64B. Make a written report to the department of inspections and appeals within fifteen days of the end of each calendar quarter of the amount of funds which were owed to the state for indigent defense services and which were recouped pursuant to subsection 5 ~~or 64A~~.

Sec. 107. Section 335.25, subsection 3, Code Supplement 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, new family homes owned or operated by public or private agencies shall be ~~disbursed~~ dispersed 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. 108. Section 335.32, Code Supplement 1993, is amended to read as follows:

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~~ 504C.

Sec. 109. Section 357A.14, subsection 1, Code Supplement 1993, is amended to read as follows:

1. An owner of real property outside a district which can be economically 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 a manner set forth in sections 357A.3 through 357A.6.

Sec. 110. Section 414.22, subsection 3, Code Supplement 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, new family homes owned and operated by public or private agencies shall be ~~disbursed~~ dispersed 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. 111. Section 414.30, Code Supplement 1993, is amended to read as follows:

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~~ 504C.

Sec. 112. Section 455E.11, subsection 2, paragraph e, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

An oil overcharge account. The oil overcharge moneys distributed by the United States department of energy, and approved for the energy related components of the groundwater protection strategy available through the energy conservation trust created in section ~~93.11~~ 473.11, shall be deposited in the oil overcharge account as appropriated by the general assembly. The oil overcharge account shall be used for the following purposes:

Sec. 113. Section 505.1, Code Supplement 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,~~ subtitle and ~~chapters~~ chapter 502 and 535C, "division" means the insurance division.

Sec. 114. Section 507C.42, subsection 3, Code Supplement 1993, is 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~~, and claims 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.

Sec. 115. Section 546.8, Code Supplement 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 523G,~~ and ~~chapters~~ chapter 502 ~~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. 116. Section 556.5, subsection 2, Code Supplement 1993, is amended to read as follows:

2. At the expiration of a 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~~ three dividends, distributions, or other sums paid during the period, none of which has been claimed by the owner. If three dividends, distributions, or other sums are paid during the 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 three dividends, distributions, or other sums are not paid during the presumptive period, the period continues to run until there have been three dividends, distributions, or other sums that have not been claimed by the owner.

Sec. 117. Section 595.19, Code 1993, is amended to read as follows:

595.19 VOID MARRIAGES.

1. Marriages between the following persons who are related by blood are void:

~~1~~ a. Between a man and his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter, or sister's daughter.

~~2~~ b. Between a woman and her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son, or sister's son.

~~3~~ c. Between first cousins.

4 2. ~~Between~~ Marriages between persons either of whom has a husband or wife living are void, but, if the parties live and cohabit together after the death or divorce of the former husband or wife, such marriage shall be valid.

Sec. 118. Section 602.8107, subsection 5, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

This subsection does not apply to amounts collected for victim restitution, the ~~new victim restitution~~ victim compensation fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

Sec. 119. Section 724.22, subsection 7, Code 1993, is amended to read as follows:

7. Access to loaded firearms by children restricted — penalty. It shall be unlawful for any person to store or leave a loaded firearm which is not secured by a trigger lock mechanism, placed in a securely locked box or container, or placed in some other location which a reasonable person would believe to be secure from a minor under the age of fourteen years, if such person knows or has reason to believe that a minor under the age of fourteen years is likely to gain access to the firearm without the lawful permission of the minor's parent, guardian, or person having charge of the minor, the minor lawfully gains access to the firearm without the consent of the minor's parent, guardian, or person having charge of the minor, and the minor exhibits the firearm in a public place in an unlawful manner, or uses the firearm unlawfully to cause injury or death to a person. This subsection does not apply if the minor obtains the firearm as a result of an unlawful entry by any person. A violation of this ~~section~~ subsection is punishable as a serious misdemeanor.

Sec. 120. Section 730.5, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Except as provided in subsection 7, an employer shall not require or request employees or applicants for employment to submit to a drug test as a condition of employment, preemployment, promotion, or change in status of employment. An employer shall not request, require, or conduct random or blanket drug testing of employees. However, this section does not apply to preemployment drug tests authorized for peace officers or correctional officers of the state, or to drug tests required under federal statutes or under federal regulations adopted as of July 1, 1990, or to drug tests conducted pursuant to a nuclear regulatory commission ~~policy statement~~ regulation, or to drug tests conducted to determine if an employee is ineligible to receive workers' compensation under section 85.16, subsection 2.

Sec. 121. Section 805.8, subsection 2, paragraph g, subparagraph (3), Code Supplement 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, 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. 122. Section 815.9A, subsection 1, Code Supplement 1993, is amended to read as follows:

1. 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~~ shall be recovered in accordance with rules adopted by the state public defender.

Sec. 123. Section 910A.16, subsection 4, Code Supplement 1993, is amended to read as follows:

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~~ committed upon a victim as defined in subsection 1.

Sec. 124. 1993 Iowa Acts, chapter 131, section 29, is amended to read as follows:

SEC. 29. 1. 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.

2. 1992 Iowa Acts, chapter 1238, section 10, is repealed.

Sec. 125. REPEALS.

1. Section 2.68, Code 1993, is repealed.
2. 1992 Iowa Acts, chapter 1117, sections 40 and 43, are repealed.
3. 1993 Iowa Acts, chapter 175, section 26, is repealed.

Approved March 31, 1994

CHAPTER 1024

INVOLUNTARY COMMITMENT – SUMMARY OF PROCEDURES

H.F. 2037

AN ACT relating to the involuntary commitment of another, and providing for a summary of the procedures involved in an involuntary commitment.

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

Section 1. NEW SECTION. 229.45 PROVISION OF SUMMARY OF PROCEDURES TO APPLICANT IN INVOLUNTARY COMMITMENT.

The department of human services, in consultation with the office of attorney general, shall develop a summary of the procedures involved in an involuntary commitment and information concerning the participation of an applicant in the proceedings. The summary shall be provided by the department, at the department's expense, to the clerks of the district court who shall make the summary available to all applicants prior to the filing of a verified application, or to any other person upon request, and who shall attach a copy of the summary to the notice of hearing which is served upon the respondent under section 125.77 or 229.7. The summary may include, but is not limited to, the following:

1. The statutory criteria for ordering that a person be involuntarily committed under chapter 125 or sections 229.11 and 229.13.
2. A description of the hearing process.
3. An explanation of the applicant's right to testify and examples of the kinds of relevant information which may be introduced at the hearing.
4. An explanation of the duties of the county attorney in civil commitment proceedings.

Approved March 31, 1994

CHAPTER 1025

FEES COLLECTED BY COUNTY OFFICERS
H.F. 2094

AN ACT relating to the collection and disposition of fees by county officers.

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

Section 1. Section 331.902, subsection 3, Code 1993, is amended to read as follows:

3. Each elective officer specified in subsection 1 shall make a quarterly report to the board showing, by type, the fees collected during the preceding quarter. The officer shall pay at least quarterly to the county treasury the fees and charges collected ~~during the preceding quarter~~, receive duplicate receipts for the payment, and file one of the receipts in the office of the auditor, except for the county auditor's transfer fees, which shall be paid directly to the county treasurer by the county recorder. The officer shall note in the officer's fee book the date and amount of each payment into the county treasury. This subsection does not apply to the county treasurer if the county treasurer credits the fees daily to the county treasury and reports the receipts on the monthly report to the auditor and the board of supervisors.

Sec. 2. Section 331.507, subsection 4, Code 1993, is amended to read as follows:

4. Fees collected or received by the auditor shall be accounted for and paid into the county treasury ~~quarterly~~ as provided in section 331.902.

Sec. 3. Section 331.558, subsection 3, Code 1993, is amended to read as follows:

3. A ~~quarterly~~ report to the board of the fees collected during the preceding quarter as provided in section 331.902.

Sec. 4. Section 331.602, subsection 43, Code 1993, is amended to read as follows:

43. Report ~~quarterly~~ to the board the fees collected as provided in section 331.902.

Approved March 31, 1994

CHAPTER 1026

SUSPENSION OF CERTAIN BANKING LAWS
H.F. 2110

AN ACT providing for the continued suspension of certain banking laws relating to the acquisition of savings and loan associations.

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

Section 1. 1990 Iowa Acts, chapter 1274, unnumbered paragraph 1 after the enacting clause, as amended by 1991 Iowa Acts, chapter 220, section 7, 1992 Iowa Acts, chapter 1161, section 7, and 1993 Iowa Acts, chapter 28, section 2, 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, ~~1994~~ 1995. On and after July 1, ~~1994~~ 1995, the restrictions in Code chapter 524 shall be applied as though acquisitions made pursuant to this resolution had not been made.

Approved March 31, 1994

CHAPTER 1027

HOSPITALIZATION HEARINGS — PATIENT ADVOCATES
H.F. 2134

AN ACT to permit the patient advocate to attend hospitalization hearings of persons who are alleged to be seriously mentally impaired.

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

Section 1. NEW SECTION. 229.9A ADVOCATE INFORMED.
The court shall direct the clerk to furnish the advocate of the respondent's county of legal settlement with a copy of application and any order issued pursuant to section 229.8, subsection 3. The advocate may attend the hospitalization hearing of any respondent for whom the advocate has received notice of a hospitalization hearing.

Sec. 2. Section 229.12, subsection 2, Code 1993, is amended to read as follows:
2. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding and shall permit the advocate from the respondent's county of legal settlement to attend the hearing. Upon motion of the county attorney, the judge may exclude the respondent from the hearing during the testimony of any particular witness if the judge determines that witness' testimony is likely to cause the respondent severe emotional trauma.

Approved March 31, 1994

CHAPTER 1028

SIZE OF REGISTRATION PLATES FOR CERTAIN TRAILERS
H.F. 2156

AN ACT relating to size requirements for registration plates for certain trailers and providing effective and applicability dates.

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

Section 1. Section 321.166, subsection 1, Code 1993, is amended to read as follows:
1. Registration plates shall be of metal and of a size not to exceed six inches by twelve inches, except that the size of plates issued for use on motorized bicycles, motorcycles, motorcycle trailers, trailers with an empty weight of two thousand pounds or less, and special mobile equipment shall be established by the department.

Sec. 2. Section 321.166, subsection 3, Code 1993, is amended to read as follows:
3. The registration plate number shall be displayed in characters which shall not exceed a height of four inches nor a stroke width exceeding five-eighths of an inch. Special plates issued to dealers shall display the alphabetical character "D", which shall be of the same size of the characters in the registration plate. The registration plate number issued for motorized bicycles, motorcycles, trailers with an empty weight of two thousand pounds or less, and motorcycle trailers shall be a size prescribed by the department.

Sec. 3. Section 321.166, subsection 4, Code 1993, is amended to read as follows:
4. The registration plate number, except on motorized bicycle, motorcycle, motorcycle trailer, trailers with an empty weight of two thousand pounds or less, and special mobile equipment registration plates, shall be of sufficient size to be readable from a distance of one hundred feet during daylight.

Sec. 4. Section 321.166, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The owner of a trailer with an empty weight of two thousand pounds or less shall receive registration plates for the trailer smaller than plates regularly issued for automobiles pursuant to rules adopted by the department in accordance with this section.

Sec. 5. EFFECTIVE DATE. This Act takes effect on January 1, 1995.

Sec. 6. APPLICABILITY DATE. Section 4 of this Act applies only to new registration plates issued to owners on or after January 1, 1995.

Approved March 31, 1994

CHAPTER 1029

FUND STRUCTURE OF SCHOOL DISTRICTS

H.F. 2308

AN ACT relating to the regrouping of school district funds to be more compatible with generally accepted accounting principles and providing an effective date.

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

Section 1. NEW SECTION. 298A.1 EFFECTIVE DATE.

This chapter establishes the fund structure which shall be used by school districts commencing with the school budget year which begins on July 1, 1995.

Sec. 2. NEW SECTION. 298A.2 GENERAL FUND.

All moneys received by a school corporation from taxes and other sources must be accounted for in the general fund, except moneys required by law to be accounted for in another fund.

Sec. 3. NEW SECTION. 298A.3 DISTRICT MANAGEMENT LEVY FUND.

The district management levy fund is a special revenue fund. A district management levy fund must be established in any school corporation which levies the tax authorized under section 298.4.

Sec. 4. NEW SECTION. 298A.4 PHYSICAL PLANT AND EQUIPMENT LEVY FUND.

The physical plant and equipment levy fund is a special revenue fund. A physical plant and equipment levy fund must be established in any school corporation which levies the tax authorized, whether regular or voter-approved, under section 298.2.

Sec. 5. NEW SECTION. 298A.5 SCHOOLHOUSE TAX LEVY FUND.

The schoolhouse tax levy fund is a special revenue fund. A schoolhouse tax levy fund must be established in any school corporation which levies the tax which was authorized by section 278.1, subsection 7, Code 1989. This fund shall continue in existence until all tax has been collected and all moneys have been expended for the purposes originally authorized by the electors.

Sec. 6. NEW SECTION. 298A.6 PUBLIC EDUCATION AND RECREATION LEVY FUND.

The public education and recreation levy fund is a special revenue fund. A public education and recreation levy fund must be established in any school corporation which levies the tax authorized under section 300.2 or which receives revenue from a 28E agreement authorized under section 300.1.

Sec. 7. NEW SECTION. 298A.7 LIBRARY LEVY FUND.

The library levy fund is a special revenue fund. A library levy fund must be established in any school corporation which levies the tax authorized under section 298.7.

Sec. 8. NEW SECTION. 298A.8 STUDENT ACTIVITY FUND.

The student activity fund is a special revenue fund. A student activity fund must be established in any school corporation receiving money from student-related activities such as admissions, activity fees, student dues, student fund-raising events, or other student-related cocurricular or extracurricular activities. Moneys in this fund shall be used to support only the cocurricular program defined in department of education administrative rules.

Sec. 9. NEW SECTION. 298A.9 CAPITAL PROJECT FUNDS.

A capital project fund must be established in any school corporation which issues bonds or other authorized indebtedness for capital projects or which initiates a capital project, or which receives grants or other funds for capital projects. Boards are authorized to establish more than one capital project fund as necessary. Any balance remaining in a capital project fund after the capital project is completed may be retained for future capital projects in accordance with the original purpose of the bond issue or voter-approved levy; or may be transferred, by board resolution, to the debt service fund, the physical plant and equipment levy fund, or other fund from which the surplus originated; or transferred to the general fund in accordance with section 278.1, subsection 5.

Sec. 10. NEW SECTION. 298A.10 DEBT SERVICE FUND.

A debt service fund must be established in any school corporation which issues bonds or other authorized indebtedness. The debt service fund shall be used to pay interest as it becomes due and the amount necessary to pay the principal when due on bonds or other authorized indebtedness issued by the district, and to make payments required under a loan, lease-purchase agreement, or other evidence of indebtedness authorized by Code. Moneys available to service this debt and received from other sources shall be transferred to the debt service fund and the payment of the debt shall be made from this fund. Funds remaining in the debt service fund after payment of all outstanding debt in accordance with the original purpose of the indebtedness may be transferred by board resolution to the physical plant and equipment levy fund or transferred to the general fund in accordance with section 278.1, subsection 5.

Sec. 11. NEW SECTION. 298A.11 SCHOOL NUTRITION FUND.

A school nutrition fund is an enterprise fund. A school nutrition fund must be established in any school corporation receiving moneys from the school lunch program authorized under chapter 283A.

Sec. 12. NEW SECTION. 298A.12 CHILD CARE FUND.

A child care fund is an enterprise fund. A child care fund must be established in any school corporation receiving moneys from the child day care program authorized under section 279.49.

Sec. 13. NEW SECTION. 298A.13 TRUST OR AGENCY FUNDS.

Trust or agency funds shall be established by any school corporation to account for gifts it receives to be used for a particular purpose or to account for money and property received and administered by the district as trustee or custodian or in the capacity of an agent. Boards may establish trust and agency funds as necessary.

Sec. 14. NEW SECTION. 298A.14 OTHER FUNDS.

A school corporation may establish other funds in accordance with generally accepted accounting principles and may certify other taxes to be levied for the funds as provided by state law. The status of each fund must be included in the annual report. The treasurer shall keep a separate account for each fund, and shall not pay an order that fails to state the fund upon which it is drawn and the specific use to which it is to be applied.

Sec. 15. Section 12C.14, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Earnings and interest from investments authorized by this section shall be used either to retire the ~~bonded~~ authorized indebtedness or to be credited to ~~the schoolhouse~~ a capital project fund for the purpose of financing the construction or equipping of the school building for which the bonds were sold.

Sec. 16. Section 278.1, subsection 5, Code 1993, is amended to read as follows:

5. Direct the transfer of any surplus in the ~~schoolhouse fund~~ debt service fund, physical plant and equipment levy fund, capital projects funds, or public education and recreation levy fund to the general fund.

Sec. 17. Section 278.1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The board may, with approval of sixty percent of the voters, voting in a regular or special election in the school district, make extended time contracts not to exceed twenty years in duration for rental of buildings to supplement existing schoolhouse facilities; and where it is deemed advisable for buildings to be constructed or placed on real estate owned by the school district, ~~such~~ these contracts may include lease-purchase option agreements, ~~such~~ the amounts to be paid out of the ~~schoolhouse~~ physical plant and equipment levy fund.

Sec. 18. Section 279.41, Code 1993, is amended to read as follows:

279.41 SCHOOLHOUSES AND SITES SOLD — FUNDS.

~~Any fund~~ Moneys received from the condemnation, sale, or other disposition for public purposes of schoolhouses, school sites, or both schoolhouses and school sites, ~~may~~ shall be deposited in the ~~schoolhouse~~ physical plant and equipment levy fund and may without a vote of the electorate be used for the purchase of school sites or the erection or repair of schoolhouses, or both, as ordered by the board of directors of ~~such~~ the school district~~, provided, however, that the board shall comply with section 297.7~~.

Sec. 19. Section 279.42, Code 1993, is amended to read as follows:

279.42 GIFTS TO SCHOOLS.

The board of directors of ~~any~~ a school district which receives funds through gifts, devises, and bequests ~~may utilize the same, unless limited by the terms of the grant, in the general or schoolhouse fund expenditures~~ shall deposit these funds in a trust and agency fund and use them in accordance with the terms of the gift, devise, or bequest.

Sec. 20. Section 283A.9, Code 1993, is amended to read as follows:

283A.9 BUILDING FOR SCHOOL LUNCH FACILITY.

School districts may purchase, erect, or otherwise acquire a building for use as a school lunch facility, and equip a building for that use, and pay for the acquisition or equipping from ~~unencumbered funds on hand in the schoolhouse~~ funds available in the physical plant and equipment levy fund, subject to the terms of ~~this~~ section~~, or may pay for the facility or equipment from the proceeds of the sale of school property sold under section 297.22, or from surplus remaining in the schoolhouse fund after retirement of a bond issue~~ 298.2.

Sec. 21. Section 285.10, subsection 7, paragraph a, Code Supplement 1993, is amended to read as follows:

a. From funds available in the general ~~operating~~ fund or ~~funds~~ in the ~~schoolhouse fund which are raised by the~~ physical plant and equipment levy fund.

Sec. 22. Section 297.22, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Proceeds from the sale~~, lease~~ or disposition of real property shall be placed in the ~~schoolhouse~~ physical plant and equipment levy fund ~~and proceeds~~. Proceeds from the sale~~, lease~~ or disposition of property other than real property shall be placed in the general fund. Proceeds from the lease of real or other property shall be placed in the general fund.

Sec. 23. Section 297.36, unnumbered paragraphs 4 and 5, Code 1993, are amended to read as follows:

The proceeds of a loan must be deposited in ~~a~~ the physical plant and equipment levy fund ~~which is separate from other district funds~~. Warrants paid from this fund must be for purposes authorized for the voter-approved physical plant and equipment levy.

This section does not limit the authority of the board of directors to levy the full amount of the voter-approved physical plant and equipment levy, but if and to whatever extent the tax is levied in any year in excess of the amount of principal and interest falling due in that year under a loan agreement, the first available proceeds, to an amount sufficient to meet maturing installments of principal and interest under the loan agreement, shall be paid into the ~~sinking~~ debt service fund for the loan before the taxes are otherwise made available to the school corporation for other school purposes, and the amount required to be annually set aside to pay principal of and interest on the money borrowed under the loan agreement constitutes a first charge upon the proceeds of the voter-approved physical plant and equipment levy, which tax shall be pledged to pay the loan and the interest on the loan.

Sec. 24. Section 298.3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The revenue from the regular and voter-approved physical plant and equipment levies shall be placed in the ~~schoolhouse~~ physical plant and equipment levy fund and expended only for the following purposes:

Sec. 25. Section 298.3, unnumbered paragraphs 2 and 3, Code 1993, are amended to read as follows:

Interest earned on money in the ~~schoolhouse~~ physical plant and equipment levy fund may be expended for a purpose listed in this section.

~~Notwithstanding section 291.13, unencumbered~~ Unencumbered funds collected prior to July 1, 1991, from the levy previously authorized under section 297.5, Code 1991, may be expended for the purposes listed in this section.

Sec. 26. Section 298.4, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

The board of directors of a school district may certify for levy by 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~~ levy fund of the school district. The district management levy shall be expended only for the following purposes:

Sec. 27. Section 298.4, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

~~Notwithstanding section 291.13, unencumbered~~ Unencumbered funds collected from the levies authorized in sections 96.31, 279.46, and 296.7 prior to July 1, 1991, may be expended for the purposes listed in subsections 1, 3, and 5.

Sec. 28. Section 298.18, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The board of each school corporation shall, when estimating and certifying the amount of money required for general purposes, estimate and certify to the board of supervisors of the proper county for the ~~schoolhouse~~ debt service fund the amount required to pay interest due or that may become due for the fiscal year beginning July 1, thereafter, upon lawful bonded indebtedness, and in addition thereto such amount as the board may deem necessary to apply on the principal.

Sec. 29. Section 300.2, unnumbered paragraph 2, Code Supplement 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 April 15 of the preceding fiscal year. The board of supervisors shall levy the amount certified. The

amount shall be placed in the ~~schoolhouse~~ public education and recreation levy fund of the district and shall be used only for the purposes specified in this chapter.

Sec. 30. Section 473.20, subsection 2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

School districts and community colleges may enter into financing arrangements with the department or its duly authorized agents or representatives obligating the school district or community college to make payments on the loans beyond the current budget year of the school district or community college. Chapter 75 shall not be applicable. School districts shall repay the loans from moneys in either their general fund or ~~schoolhouse~~ debt service fund. Community colleges shall repay the loans from their general fund. Other entities receiving loans under this section shall repay the loans from any moneys available to them.

Sec. 31. To the extent that bond or note resolutions, loan agreements, lease-purchase agreements or other agreements in existence on the effective date of this Act contain references to obsolete Code sections, rules or forms, they shall be construed to assure compliance with the terms of such resolutions or agreements and substantial compliance with this Act.

Sec. 32. Section 291.13, Code 1993, is repealed.

Sec. 33. This Act is effective July 1, 1995. The funds identified in sections 1 through 14 of this Act shall be established by school districts for the school budget year beginning July 1, 1995, and school budget forms based upon the funds identified in sections 1 through 14 of and in this Act shall be prepared for use for the school budget year beginning July 1, 1995.

Approved March 31, 1994

CHAPTER 1030

ROADS – PIPELINE RELOCATION – CONDEMNATION

H.F. 2362

AN ACT relating to hazardous liquid pipeline condemnation and providing an effective date.

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

Section 1. Section 306.19, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If the agency determines that it is necessary to relocate an interstate hazardous liquid pipeline as defined by the federal Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. § 2001, et seq., the agency shall have the authority to institute and maintain proceedings on behalf of the pipeline company for the condemnation of replacement property rights. The replacement property rights shall be equal in substance to the pipeline company's existing rights, except that if the issue of width was not addressed, the replacement property rights shall be for a width and location deemed appropriate and necessary for the needs of the pipeline company, as determined by the agency. The replacement property rights of the pipeline company shall be subordinate to the rights of the agency only to the extent necessary for the construction and maintenance of the designated road. Within a reasonable time after completion of the pipeline replacement, all previously owned property rights of the pipeline company no longer required for operation and maintenance of the pipeline shall be released or conveyed to the appropriate parties. The authority of the agency under this subsection may only be exercised upon execution of a relocation agreement between the agency and the pipeline company.

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

Approved March 31, 1994

CHAPTER 1031

DIVISION OF INSURANCE – SECURITIES REGULATION – REGULATED INDUSTRIES

H.F. 2385

AN ACT relating to entities and subject matter under the regulatory authority of the division of insurance, including securities, motor vehicle service contracts, residential service contracts, business opportunities, and invention developers, and providing for fees, and establishing penalties.

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

Section 1. Section 321I.5, subsection 2, paragraph m, Code 1993, is amended to read as follows:

m. Sets forth any and all conditions on which the service contract may be canceled ~~and any and all~~, the terms and conditions for the refund of any portion of the purchase price, the identity of the person primarily liable to provide any refund, and the identity of any other person liable to provide any portion of the refund.

Sec. 2. Section 321I.8, Code 1993, is amended to read as follows:

321I.8 EXEMPTION.

This chapter does not apply to a motor vehicle service contract issued by the manufacturer or importer of the motor vehicle covered by the service contract or to any ~~third party administrator~~ third party acting in an administrative capacity on the manufacturer's behalf in connection with that service contract.

Sec. 3. Section 321I.12, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A motor vehicle service contract provider shall promptly deliver a written explanation to the service contract holder, describing the reasons for denying a claim or for the offer of a compromise settlement, based on all relevant facts or legal requirements and referring to applicable provisions of the service contract.

Sec. 4. Section 321I.14, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If an investigation provides reasonable evidence that a person violated this chapter or a rule adopted pursuant to this chapter, the commissioner may issue an order directed at the person to cease and desist from engaging in the act or practice resulting in the violation.

Sec. 5. NEW SECTION. 321I.16 VIOLATIONS.

1. A violation of this chapter or a rule adopted pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and civil penalties, apply to violations of this chapter.

2. If the commissioner believes that grounds exist for the criminal prosecution of persons subject to this chapter for violations of this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, in order that the attorney general or the county attorney may proceed with the matter as deemed appropriate. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county served by the county attorney.

3. A person who willfully and knowingly violates this chapter or a rule adopted pursuant to this chapter is, upon conviction, guilty of a class "D" felony.

Sec. 6. Section 502.102, subsection 11, Code 1993, is amended to read as follows:

11. "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, a fiduciary, an unincorporated organization, a government, or a political subdivision of a government.

Sec. 7. Section 502.208, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. a. Except as provided in subsection 13 and section 502.207A, subsection 3, paragraph "g", a person who files a registration statement shall pay a filing fee of one-tenth of one percent of the proposed aggregate sales price of the securities to be offered to persons in this state pursuant to the registration statement. However, except as provided in paragraph "c", subsection 13, and section 502.207A, subsection 3, paragraph "g", the annual filing fee shall not be less than fifty dollars or more than one thousand dollars.

b. The administrator shall retain the filing fee even if the registration is withdrawn, denied, suspended, revoked, or abandoned.

c. A person who is a face-amount certificate company, open-end management investment company, or a unit investment trust, as defined in the Investment Company Act of 1940, shall initially register and annually renew a registration statement in this state for an indefinite amount or a fixed amount. The fixed amount must be for two hundred fifty thousand dollars. A registrant shall pay a filing fee when the statement is filed. If the registration statement amount is indefinite, the registrant shall pay a filing fee of one thousand dollars. If the registration statement amount is fixed, the registrant shall pay a filing fee of two hundred fifty dollars, and the following shall apply:

(1) The registrant shall file a sales report with the administrator or pay an additional filing fee of one thousand two hundred fifty dollars within ninety days after the registration statement's annual renewal date. If the registrant files a sales report with the administrator, the registrant shall pay an additional filing fee of one-tenth of one percent of the amount of securities sold in excess of two hundred fifty thousand dollars. The additional filing fee must be paid within ninety days after the registration statement's annual renewal date.

(2) The administrator shall order the registration of the additional securities effective retroactively as of the effective date of the registration statement that is being amended.

Sec. 8. Section 502.208, subsection 9, paragraph a, Code 1993, is amended to read as follows:

a. A registration statement shall remain effective for one year from its effective date unless it is renewed, extended, or amended by rule or order of the administrator. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any transaction by or on behalf of a person who is not the issuer, and who is not in control of the issuer or controlled by the issuer or under common control with the issuer, so long as the registration statement is effective, unless otherwise prescribed by order. A registration statement may not be withdrawn after its effective date if any of the securities has been sold in this state, unless permitted by rule or order of the administrator. A registration statement is not effective during the time a stop order is in effect under section 502.209. A registration statement which never became effective may be withdrawn without prejudice to the issuer upon request and for good cause as determined at the discretion of the administrator.

Sec. 9. Section 502.208, subsection 11, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

11. Except for face-amount certificate companies, open-end management investment companies, and unit investment trusts, as defined by the Investment Company Act of 1940, registration statements may be amended during the registration period to increase the amount of registered securities to be offered for sale to persons in this state.

a. The amendment to the registration statement becomes effective on the date ordered by the administrator.

b. Filing fees shall be calculated as specified by subsection 2, paragraph "a", and subsection 13.

Sec. 10. Section 502.208, subsection 13, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

13. a. With the exception of face-amount certificate companies, open-end management investment companies, and unit investment trusts, a registrant who sold securities to persons in this state in excess of the amount of securities registered in this state at the time of the sale may file an amendment to its registration statement to register the additional securities. The following requirements shall apply:

(1) If a registrant proposes to sell securities to persons in this state pursuant to a registration statement that is currently effective in this state in an amount that exceeds the amount registered in this state, the registrant must do both of the following:

(a) File an amendment to register the additional securities.

(b) Pay an additional filing fee in the same amount as specified by subsection 2, paragraph "a", as though the amendment constitutes a separate issue.

(2) If a registrant sold securities to persons in this state in excess of the amount registered in this state at that time, the registrant must do both of the following:

(a) File an amendment to register the additional securities.

(b) Pay an additional filing fee that is three times the amount specified in subsection 2, paragraph "a", as though the amendment constitutes a separate issue.

(3) The administrator may order the amendment effective retroactively as of the effective date of the registration statement that is being amended.

Sec. 11. Section 502.209, subsection 1, paragraphs i and j, Code 1993, are amended by striking the paragraphs and inserting in lieu thereof the following:

i. A person who is an issuer, correspondent, or applicant, as listed on the uniform application to register securities form known as "Form U-1", failed to pay the proper filing fee. The administrator may enter only a denial order pursuant to this paragraph, and shall vacate any such order when the deficiency has been corrected.

j. A person who is an issuer, correspondent, or applicant, as listed on the uniform application to register securities form known as "Form U-1", has abandoned the registration statement. The administrator may enter an order pursuant to this paragraph if a notice of abandonment is sent to the last known address of each person, and the person fails to take corrective action within the time specified by the administrator. The notice of abandonment shall state the reasons for the administrator's action, specify the corrective action required, and specify the time period for submitting a response. However, the time specified shall not be less than fifteen days.

Sec. 12. Section 502.209, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. A person who is an issuer, correspondent, or applicant has failed to file a sales report with the administrator within ninety days after the registration statement's annual anniversary of its effectiveness or latest renewal.

Sec. 13. Section 502.209, subsection 3, Code 1993, is amended to read as follows:

3. The administrator may issue a summary order revoking, withdrawing, postponing, suspending, or denying the effectiveness of a registration statement pending a final determination ~~of any proceeding under this section~~. Upon the entry of the order, the administrator shall promptly notify ~~the~~ persons who are the issuer, correspondent, and applicant ~~or registrant, the issuer, and the person on whose behalf the securities are to be or have been offered~~ by restricted certified mail, sent to the last known address of each person. The notice shall state that the order has been entered ~~and of~~, the reasons ~~therefor~~ for the administrator's action, and that the matter will be set down for a hearing within fifteen days after the receipt of a

written request ~~the matter will be set down for hearing,~~ if the request is received by the administrator within fifteen days after receipt of the notice by the persons. The hearing shall be held within forty-five days after the date of the notice of hearing unless continued by the administrative law judge for good cause with at least fifteen days' notice to the parties. If ~~no~~ a hearing is requested ~~and none is~~ or ordered, ~~by~~ the administrator, after notice of an opportunity for a hearing to each of the persons, may modify, extend, or vacate the order. If a hearing is not requested or ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. ~~If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to each of the aforementioned persons, may modify or vacate the order or extend it until final determination.~~

Sec. 14. Section 502.302, subsection 5, Code 1993, is amended by striking the subsection.

Sec. 15. Section 502.304, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. Does any of the following:

(1) Has willfully violated the law of a foreign jurisdiction governing or regulating any aspect of the business of securities or banking.

(2) Within the past five years, has been the subject of an action of a securities regulator of a foreign jurisdiction denying, revoking, or suspending the right to engage in the business of securities as a broker-dealer or agent.

(3) Is the subject of an action of any securities exchange or self-regulatory organization operating under the authority of the securities regulator of a foreign jurisdiction suspending or expelling such person from membership in such exchange or self-regulatory organization.

Sec. 16. Section 502.603, subsection 1, paragraph c, Code 1993, is amended to read as follows:

c. ~~Keep~~ Notwithstanding chapter 22, keep confidential the information obtained in the course of an investigation. However, if the administrator determines that it is necessary or appropriate in the public interest or for the protection of investors, the administrator may share information with other securities administrators, regulatory authorities, or governmental agencies or may publish information concerning a violation of this chapter or a rule or order under this chapter.

Sec. 17. Section 502.604A, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If a person fails or refuses to file any statement or report or to produce any books, papers, correspondence, memoranda, agreements, or other documents or records, or to obey any subpoena issued by the administrator, the administrator may refer the matter to the attorney general, who~~, after notice,~~ may apply to a district court to enforce compliance. The court may order any or all of the following:

Sec. 18. Section 523C.12, Code 1993, is amended to read as follows:

523C.12 OPTIONAL EXAMINATION.

The commissioner or a designee of the commissioner may make an examination of the books and records of a service company, including copies of contracts and records of claims and expenditures, and verify its assets, liabilities, and reserves. The actual costs of the examination shall be borne by the service company.

Sec. 19. NEW SECTION. 523C.20 SERVICE OF PROCESS.

The commissioner shall be the agent for service of process upon a service company.

Sec. 20. NEW SECTION. 523C.21 CLAIM PROCEDURES.

A service company shall promptly provide a written explanation to the residential customer, describing the reasons for denying a claim or for the offer of a compromise settlement, based on all relevant facts or legal requirements and referring to applicable provisions of the residential service contract.

Sec. 21. CONDITIONAL IMPLEMENTATION – PROVISIONS OF THE INVENTION DEVELOPMENT SERVICES ACT. Sections 523G.6, 523G.10, and 523G.11, relating to the duties and authority of the commissioner of insurance under the invention development services Act, shall only be implemented if and when the general assembly makes an appropriation of at least ten thousand dollars and provides for the retention of one part-time clerk for a total of at least one-half full-time equivalent position devoted to the insurance division of the department of commerce for the implementation of those sections.

Sec. 22. INSTRUCTIONS TO CODE EDITOR. The Code editor shall reverse the order that section 523B.13, subsections 3 and 4, appear in the Code.

Approved March 31, 1994

CHAPTER 1032

INNKEEPERS AND GUESTS

H.F. 2232

AN ACT relating to the rights and obligations of innkeepers and guests.

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

Section 1. NEW SECTION. 137C.25 RIGHT OF HOTEL OPERATOR TO DENY SERVICES.

1. A person operating a hotel has the right to refuse or deny the use of a room, accommodations, facilities, or other privileges of the hotel to any of the following:

a. An individual unwilling or unable to pay for the room, accommodations, facilities, or other privileges of the hotel.

b. An individual who is visibly publicly intoxicated or under the influence of alcohol or some other illegal drug, or who is disorderly so as to create a public nuisance.

c. An individual the hotel operator reasonably believes is seeking to use a room, accommodations, facilities, or other privileges of the hotel for an unlawful purpose.

d. An individual the hotel operator reasonably believes is bringing in anything which may create an unreasonable danger or risk to other persons, including but not limited to firearms or explosives.

e. An individual whose use of the room, accommodations, facilities, or other privileges of the hotel would result in a violation of the maximum capacity of such hotel.

2. A hotel operator who reasonably refuses or denies the use of a room, accommodations, facilities, or other privileges of the hotel pursuant to this section is not subject to any civil or criminal action or any fine or other penalty, unless the refusal or denial is a violation of state or federal law.

Sec. 2. NEW SECTION. 137C.25A RIGHT TO REQUIRE FINANCIAL GUARANTEE.

The hotel operator has the right to require a person seeking the use of a room, accommodations, facilities, or other privileges of the hotel to demonstrate the ability to pay for such use by cash, credit card, or approved check. The hotel operator may require the parent or guardian of a minor to do all of the following:

1. Accept in writing the liability for the cost of the room, accommodations, facilities, or other privileges of the hotel used by the minor, and for the cost of any damages to the room, furnishings in the room, or other facilities of the hotel caused by the minor while the minor is using the room, accommodations, facilities, or other privileges of the hotel.

2. Provide the hotel operator with one of the following:

a. The authority to charge any amount due for the cost of the room, accommodations, facilities, or other privileges of the hotel used by the minor, and for the cost of any damages to the room, furnishings in the room, or other facilities of the hotel caused by the minor while the minor is using the room, accommodations, facilities, or other privileges of the hotel to a credit card as defined in section 537.1301, subsection 16.

b. An advance cash payment sufficient to cover the cost of the room, accommodations, facilities, or other privileges of the hotel used by the minor, and a reasonable amount as a deposit toward the cost of any damages to the room, furnishings in the room, or other facilities of the hotel caused by the minor while the minor is using the room, accommodations, facilities, or other privileges of the hotel. A cash deposit for any damages required by the hotel operator shall be refunded to the extent not used to cover the cost of any such damages as determined by the hotel operator following an inspection of the room, accommodations, or facilities of the hotel used by the minor at the end of the minor's stay.

Sec. 3. NEW SECTION. 137C.25B RESTITUTION.

In addition to any other applicable penalties, a court may order a person to pay restitution for any damages caused by such person which are suffered by the owner or operator of the hotel. Damages for which restitution may be ordered, in addition to physical damages, may include the loss of revenue resulting from the hotel being unable to rent or lease the room, accommodation, or facility during any time of repair, and restitution to any other individual who is injured or whose property is damaged as a result of the violation. The parent or guardian of a minor shall be liable to the owner or operator for the acts of the minor which result in damage to the room, accommodation, or facility, and for restitution to any other individual who is injured or whose property is damaged as a result of such acts.

Sec. 4. NEW SECTION. 137C.25C RIGHT TO EJECT.

An owner or operator of a hotel may eject a person from the hotel for any of the following reasons:

1. Nonpayment of charges incurred by the individual renting or leasing a room, accommodations, or facilities of the hotel when the charges are due and owing.

2. The individual renting or leasing a room, accommodations, or facilities of the hotel is visibly intoxicated, or is disorderly so as to create a public nuisance.

3. The owner or operator reasonably believes that the individual is using the premises for an unlawful purpose including, but not limited to, the unlawful use or possession of controlled substances or the use of the premises for the consumption of alcohol by an individual in violation of section 123.47 or 123.47A.

4. The owner or operator reasonably believes that the individual has brought anything into the hotel which may create an unreasonable danger or risk to other persons, including but not limited to firearms or explosives.

5. The individual is in violation of any federal, state, or local laws or regulations relating to the hotel.

6. The individual is in violation of any rule of the hotel which is posted as provided in section 137C.25D.

Sec. 5. NEW SECTION. 137C.25D POSTING RULES BY OWNER OR OPERATOR.

An owner or operator of a hotel shall post a copy of sections 137C.25 through 137C.25C, in addition to any rules established by the owner or operator of the hotel, in a conspicuous place at or near the guest registration desk and in each room of the hotel.

Sec. 6. NEW SECTION. 137C.25E DOCUMENTATION AND REGISTRATION REQUIREMENTS.

A hotel shall keep and maintain for a period of three years, a guest register which shall show the name, residence, date of arrival, and date of departure of each individual renting or leasing a room, accommodations, or facilities of the hotel.

Each individual renting or leasing a room, accommodations, or facilities of the hotel shall register, and may be required by the owner or operator of the hotel to show proof of identity by producing a valid driver's license, or other identification satisfactory to the owner or operator. The identification shall have a photograph of the individual and include the name and residence of the individual. If the individual is a minor, the owner or operator may also require a parent or guardian of the minor to register.

The guest register may be kept and maintained by recording, copying, or reproducing the register by any photographic, photostatic, microfilm, microcard, miniature photographic, electronic imaging, electronic data processing, or other process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the original.

Approved March 31, 1994

CHAPTER 1033

COMMUNITY HEALTH MANAGEMENT INFORMATION SYSTEM

S.F. 2069

AN ACT relating to the development and implementation of a community health management information system, providing a civil penalty, and extending the repeal of the health data commission.

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

Section 1. NEW SECTION. 144C.1 SHORT TITLE.

This chapter shall be cited as the "Community Health Management Information System Act".

Sec. 2. 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 transaction process; provide an efficient mechanism for the exchange of medical and transactional information among providers and other interested entities; provide communities with information on cost, appropriateness, and effectiveness of health care providers; and provide information to employers and researchers which will allow for benefit plan analysis, severity of illness and outcomes analysis, and related studies. The general assembly finds that the exchange of such medical and transactional information, while vital in the effort to control health care administrative costs and in analyzing benefit plans and medical outcomes, must be accomplished in a manner which protects and assures patient confidentiality; 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 transaction forms that need to be completed, a reduction in the error rate on transaction submissions, an improvement in the overall data communication among affected parties, and a reduction in health care administrative costs. The general assembly also finds that there shall be only a single community health management information system in this state.

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

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

1. "Board" means the community health management information system governing board established in section 144C.5.

2. "Commissioner" means the commissioner of insurance.

3. "Community health management information system" or "system" means an integrated electronic health management information system for transmittal and selected storage of data related to transactions and other health care-related information.

4. "Consumer" means an employer, labor union, an individual representing an employer or labor union, a representative of state government, or a member of the general public. "Consumer" does not include a provider, payor, an employee of a provider or payor, or other person with a financial interest in the provision of or payment for health care.

5. "Data repository" means the community health management information system data repository for the storage and transmittal of data related to transactions and other health care-related information.

6. "Division" means the insurance division.

7. "Interface" means the ability to communicate electronically according to standards and communication formats established by the board.

8. "Outcomes measurement" means a method established by the board for determining the quality of health care provided to consumers.

9. "Payor" means a person who provides for the payment of health care benefits including a third party administrator subject to chapter 513A; an insurer issuing a group accident or sickness insurance policy on an expense incurred basis; a person issuing a group hospital or medical service contract pursuant to chapter 509, 514, or 514A; a group health maintenance organization operating pursuant to chapter 514B; or a self-insured plan.

10. "Provider" means a hospital licensed pursuant to chapter 135B; a health care facility licensed pursuant to chapter 135C, 135G, 135H; a hospice program certified under Title XVIII or XIX of the federal Social Security Act or a hospice program licensed under chapter 135J; a health-related professional licensed under chapters 147 through 154, and chapters 154B and 155A; and a home care aide services program certified under Title XVIII or XIX of the federal Social Security Act or a home care aide services program under contract with the department of public health.

11. "Self-insured plan" means a plan which retains the risk of loss or payment of claims related to the payment of accident and health benefits or medical, surgical, or hospital benefits as determined by the person establishing such plan.

12. "Severity of illness" means the clinical measurement of the relative medical condition of a patient.

13. "Severity of illness risk adjustment" means a reporting methodology used to adjust various statistics based upon severity of illness which is approved by the board.

14. "Transaction" means an electronic claim, encounter, or other electronic message as defined by the board pursuant to section 144C.4.

15. "Transaction network" means an electronic network which the board has certified and with which the board has entered into an agreement for receiving and transmitting data as provided in this chapter between health care providers, payors, the data repository, and any other persons the board deems necessary.

Sec. 4. NEW SECTION. 144C.3 COMMUNITY HEALTH MANAGEMENT INFORMATION SYSTEM ESTABLISHED — DATA REPOSITORY.

1. A community health management information system is established and shall be organized as a nonprofit corporation pursuant to chapter 504A. The system shall operate subject to the control and direction of the community health management information system governing board.

2. A data repository is established which is subject to the control and direction of the board. The data repository shall collect health care data and provide patients, physicians, hospitals, purchasers, payors, government agencies, and researchers with information on which to base decisions on the quality, effectiveness, and appropriateness of care.

Sec. 5. NEW SECTION. 144C.4 COMMUNITY HEALTH MANAGEMENT INFORMATION SYSTEM GOVERNING BOARD ESTABLISHED — DUTIES.

1. A community health management information system governing board is established and shall consist of twelve members, including the following:

a. Four individuals representing providers including two individuals representing hospitals as defined in chapter 135B, and two individuals representing physicians as defined in chapters 148 and 150A.

b. Six individuals representing consumers of which at least two individuals shall represent employment-based purchasers representing nongovernmental entities purchasing group health plans on behalf of other individuals. Additionally, at least one of the individuals representing employment-based purchasers shall represent self-insured plans.

c. Two individuals representing payors other than a self-insured plan.

2. The members of the board shall be appointed by the governor, subject to senate confirmation. Members shall serve three-year staggered terms beginning and ending as provided in section 69.19. Appointments to the board are subject to sections 69.16 and 69.16A. Removal of a member of the board and the filling of a vacancy on the board are governed by chapter 69. The members of the board shall be reimbursed from funds collected by the system for actual and necessary travel and related expenses incurred in the discharge of official duties.

3. The commissioner shall cooperate with the board in the implementation of this chapter and shall review the procedures and operation of the system as provided in section 144C.5.

4. The board shall develop all public policy positions and operational policies and procedures related to the system. The board shall adopt written policies and procedures necessary to implement and administer this chapter. Policies and procedures adopted by the board are subject to the review and approval of the insurance division.

5. The board shall do all of the following:

a. Define a reporting methodology for the types of information, including severity of illness and outcomes, gathered by the community health management information system, applicable to all Iowa hospitals and hospital discharges, and outpatient and ambulatory care. For purposes of this chapter, data related to severity of illness shall include a severity of illness risk adjustment, patient average length of stay, patient mortality, and average total patient charges. Upon implementation of the severity of illness and outcomes reporting methodology as authorized in this section, the board, through its data advisory committee, may continue to review alternative severity of illness and outcomes measures which may be recommended to the board for use in the data plan.

b. Establish and implement functions as appropriate for the operation of the system consistent with the implementation of the system as provided in section 144C.8.

c. Appoint appropriate advisory committees as necessary including, but not limited to, an ethics and confidentiality review committee, a data advisory committee, a technical advisory committee, and a communications and education committee to provide technical assistance regarding the operation of the system, policies and contractual agreements, and other functions within the authority of the system.

d. Establish a certification process for transaction networks. The board shall only contract with certified transaction networks for purposes of this chapter.

e. Establish an appropriate network certification fee and any other fees as necessary to maintain the efficient administration of the system and for the repayment of any indebtedness incurred by the board pursuant to this chapter.

f. Establish standards for the electronic transaction submission format, transaction networks, supplemental information requirement transaction forms, computer software, and any other information or procedures necessary to effect the purposes of this chapter.

6. The board may do any of the following:

a. Enter into contracts as necessary to administer the provisions of this chapter.

b. Borrow money to effect the purposes of the system, except that the board shall not have the authority to directly issue any notes or bonds for indebtedness and shall not have the authority to pledge the credit or taxing power of this state.

c. Employ legal counsel and other staff as necessary to effect the purposes of this chapter.

d. Assist health care providers and payors, as needed in obtaining necessary equipment and skills to access the system and in implementing the necessary procedures to effect the purposes of this chapter.

e. Enter into agreements consistent with and furthering the intent and purposes of this chapter with similar entities created in other states.

7. The board shall file a written report with the general assembly on or before January 15 of each year concerning the operation of the system. In addition to any other information contained in the report, the board shall include the system's annual operating budget for the coming year and any legislative recommendations which the board believes are necessary and which further the purposes of this chapter.

Sec. 6. NEW SECTION. 144C.5 INSURANCE DIVISION RESPONSIBILITIES.

1. The division shall enforce this chapter. All policies and procedures adopted by the board are subject to review and approval by the division. The division shall review such policies and procedures adopted by the board and determine whether such policies and procedures comply with the provisions and purposes of this chapter. Written notice of a policy or procedure which is not approved by the division shall be provided to the board stating the reason such policy or procedure is not approved. The board may amend and resubmit for review and approval any policy or procedure which is not approved by the division. The board shall not implement a policy or procedure prior to the approval of the division.

2. The division may impose a civil penalty against a payor, provider, transaction network, the data repository, or the board for failure to comply with this chapter or rules adopted pursuant to this chapter. The civil penalty imposed shall not exceed five hundred dollars for each offense. Each day of noncompliance constitutes a separate offense. However, the division shall not impose a civil penalty for a technical, nonsubstantive violation or if the noncomplying party makes a good faith effort to comply with the requirements of this chapter.

The division shall notify the noncomplying party of the division's intent to impose a civil penalty. The notice shall be sent by certified mail to the party's last known address and shall state the nature of the party's actions leading to the charge of noncompliance, the specific statute or rule involved, and the amount of the proposed penalty. The notice shall advise the party that upon failure to pay the civil penalty, the penalty may be collected by civil action. The party shall be given the opportunity to respond to the imposition of the penalty in writing, within a reasonable time as established by rule of the division.

The division may reduce or void a civil penalty imposed under this section, as appropriate. A party upon whom a civil penalty is imposed may appeal the action of the division pursuant to chapter 17A. Moneys collected from the civil penalties shall be deposited in the general fund of the state.

3. The division shall adopt rules pursuant to chapter 17A necessary to carry out the division's role related to the system and to assure that the system operates consistent with this chapter. In addition to any other rules adopted, the division shall specifically develop rules under which the board shall develop policies and procedures for the certification of transaction networks for operation in the system.

The rules shall establish procedures to sanction agreements between payors, providers, transaction networks, the data repository, and the board, upon a finding by the commissioner that the agreement will assist in the implementation of this chapter, but which agreement might be a violation of antitrust laws if undertaken without governmental direction and approval.

The rules shall assure that the purposes of this chapter are implemented and that patient confidentiality is protected.

Sec. 7. NEW SECTION. 144C.6 CONFIDENTIALITY OF INFORMATION.

1. The transactions data and other data collected and transmitted through the system shall be kept confidential. The confidentiality of patient information shall be protected and the laws of this state which relate to patient confidentiality apply.

2. The board shall establish policies and procedures consistent with this chapter and rules adopted by the division which ensure the confidentiality of information in the system, provide access to qualified individuals or organizations requesting access, establish a review process for denials of access to information in the system, and establish penalties for violations of these policies and procedures. Policies and procedures adopted by the board pursuant to this section are subject to the review and approval of the division.

3. The board shall establish an ethics and confidentiality review committee to administer this section.

Sec. 8. NEW SECTION. 144C.7 TRANSACTION PROCEDURE – NETWORK – INFORMATION TO BE SUBMITTED.

1. A provider submitting a health claim in this state shall file the claim electronically and use a standardized electronic transaction submission format as provided in this section. The electronic transaction submission format shall use the American national standards institute form for data submission and reporting to the data repository. A payor offering health care coverage in the state shall accept electronic transaction submissions, provide remittance, and transmit eligibility electronically as provided by the board. This section requires, to the extent permitted under federal law, that a self-insured plan providing health care coverage in this state shall, on its own or through a third-party administrator or other third party, accept electronic transaction submissions, provide remittance, and transmit eligibility electronically as provided by the board. A transaction network shall have the ability to accept all transactions processed electronically through the system and transmit such transaction data to the appropriate network or payor, interface with other networks or payors, provide electronic eligibility for all payors, and provide for electronic remittance for claims and concurrently transmit data to the data repository.

2. The board shall review annually all transaction networks and their effectiveness, and provide for additional electronic filing requirements as necessary and feasible.

3. The system shall use identification numbers as follows:

a. A patient identification number shall be the individual's social security number, or, upon request of the patient, a random identification number.

b. A provider identification number system shall be established by the board including the unique physician identification number, the medicare provider number, and other identifying numbers as provided by the board for providers who do not have a unique physician identification number or medicare provider number.

c. Such other identification numbers as determined by the board to be necessary to assure efficient and accurate transmittal and receipt of data through the system.

4. The system shall contain a data repository consistent with section 144C.3 which shall maintain claims information and other information as determined by the board.

5. A person shall not engage in any transaction between health care providers, payors, and the data repository unless certified by the board.

Sec. 9. NEW SECTION. 144C.8 SYSTEM IMPLEMENTATION.

The board shall implement the system as follows:

1. Phase I of the system shall be operational no later than July 1, 1996. For purposes of this chapter, "phase I" means the collection and submission of data including a patient identifier; a provider identification number; data elements included in the uniform billing-1992 form for hospitals; data elements included in the federal health care financing administration's 1500 form for physicians; an outpatient pharmacy code as determined by the board; data on all currently required discharges provided to the health data commission; and severity of illness and outcomes measurement, a measure of consumer health behavior, health status, and satisfaction with services provided as determined by the board.

2. Phase II of the system shall be operational no later than July 1, 1999. For purposes of this chapter, "phase II" means the collection and submission of data including clinical data sets; laboratory tests, X-ray results, and inpatient pharmacy codes; measures of functional outcomes;

and provider activity records for both organized delivery systems and providers not participating in an organized delivery system. The board shall develop more complete definitions of these items and submit these definitions to the general assembly for enactment as a part of this chapter no later than January 1, 1999.

3. Phase III of the system shall be implemented only after implementation of phase I and phase II, and upon approval of the general assembly. For purposes of this chapter, "phase III" means the development of a totally automated patient records system including all data elements included in phase I and phase II, and other data elements as determined by the board.

4. The board shall submit a status report regarding the development of an electronic system for the transmission of payments related to claims submitted to the system to the general assembly no later than January 1, 1995.

Sec. 10. INITIAL APPOINTMENTS TO THE BOARD. Initial appointments to the board established in 144C.4 shall be as follows:

1. One provider, one payor, and two consumers shall be appointed for a term of one year.
2. Two providers and two consumers shall be appointed for a term of two years.
3. One provider, one payor, and two consumers shall be appointed for a term of three years.

Sec. 11. Section 145.1A, Code Supplement 1993, is amended to read as follows:

145.1A REPEAL.

This chapter is repealed effective July 1, ~~1994~~ 1996.

Approved April 4, 1994

CHAPTER 1034

TRUSTEES OF CITY HOSPITALS OR HEALTH CARE FACILITIES

H.F. 259

AN ACT relating to boards of trustees of city hospitals or health care facilities.

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

Section 1. Section 392.6, unnumbered paragraphs 1, 2, and 4, Code 1993, are amended to read as follows:

If a hospital or health care facility is established by a city, the city shall by ordinance provide for the election, at a general, city, or special election, of three trustees, whose terms of office shall be ~~six~~ four years; ~~but.~~ However, at the first election, three shall be elected and hold their office, ~~respectively, for two, four, and six~~ one for four years and two for two years, and they shall by lot determine their respective terms. A board of trustees elected pursuant to this section shall serve as the sole and only board of trustees for any and all institutions established by a city as provided for in this section.

Cities maintaining an institution as provided for in this section which have a board of trustees consisting of three members may by ordinance increase the number of members to five and provide for the appointment of one of the additional members until the next succeeding general or city election, and for the appointment of the other additional member until the second succeeding general or city election. Thereafter, the terms of office of such additional members shall be ~~six~~ four years.

The ~~official serving as treasurer of the city shall be the~~ treasurer of the board of trustees, ~~and~~ shall receive and disburse all funds under the control of the board as ordered by it, ~~but shall receive no additional compensation for services~~. The treasurer shall give bond in a form and amount as determined by the board in its discretion.

Sec. 2. Upon the expiration of the terms of office of trustees of hospitals or health care facilities under section 392.6 serving on the effective date of this Act, trustees shall be elected to four-year terms.

Approved April 4, 1994

CHAPTER 1035

DRAINAGE DISTRICT ASSESSMENTS – INTEREST RATE

H.F. 2311

AN ACT relating to the rate of interest that may be charged by a governing body assessing land within a drainage district.

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

Section 1. Section 468.50, Code 1993, is amended to read as follows:

468.50 LEVY – INTEREST.

When the board has finally determined the matter of assessments of benefits and apportionment, it shall levy the assessments as fixed by it upon the lands within the district, but an assessment on a tract, parcel or lot within the district which is computed at less than two dollars shall be fixed at the sum of two dollars. All assessments shall be levied at that time as a tax and shall bear interest at ~~not to exceed the rate permitted~~ a rate determined by the board notwithstanding chapter 74A from that date, payable annually, except as provided as to cash payments within a specified time.

Sec. 2. Section 468.57, subsections 1 and 2, Code 1993, are amended to read as follows:

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

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

Sec. 3. Section 468.70, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The board may provide by resolution for the payment of assessments in not more than twenty annual installments with interest at a rate ~~not exceeding that permitted~~ determined by the board, notwithstanding chapter 74A. The board may issue warrants bearing interest at the same rate, which warrants shall be numbered and state a maturity date in which event they shall bear interest from the date of issuance without being presented for payment and marked unpaid for want of funds. The warrants may be sold by the board for cash in an amount not less than ~~the~~ their face value ~~thereof~~, together with any accrued interest~~, if any~~.

Sec. 4. Section 468.72, Code 1993, is amended to read as follows:

468.72 INTEREST — PLACE OF PAYMENT.

Such certificates shall bear interest at a rate ~~not exceeding that permitted by chapter 74A~~ determined by the board, payable annually, and shall be paid by the taxpayer to the county treasurer, who shall receipt for the same and cause the amount to be credited on the certificates issued therefor.

Sec. 5. Section 468.76, Code 1993, is amended to read as follows:

468.76 AMOUNT — INTEREST — MATURITY.

In no case shall the aggregate amount of all bonds issued exceed the benefits assessed. The bonds shall not be issued for a greater amount than the aggregate amount of assessments for the payment of which they are issued, nor for a longer period of maturity than twenty years. The bonds shall bear interest at a rate ~~not exceeding that permitted by~~ determined by the board, notwithstanding chapter 74A, payable semiannually, on June 1 and December 1 of each year. The interest on unpaid assessments shall be at a rate ~~not exceeding that permitted by chapter 74A~~ determined by the board.

Sec. 6. Section 468.212, Code 1993, is amended to read as follows:

468.212 INSTALLMENTS — WARRANTS.

The board shall levy the costs contemplated in section 468.201 upon all of the lands of the district on the basis of the classification for benefits as finally established and the assessments so levied shall be paid in one installment unless the board in its discretion shall provide for the payment thereof in not more than twenty equal installments with interest at a rate ~~not exceeding that permitted~~ determined by the board notwithstanding chapter 74A. The board may issue anticipatory warrants bearing interest at a rate ~~not exceeding that permitted by~~ determined by the board, notwithstanding chapter 74A. The warrants may be numbered and state a maturity date. The warrants may be sold by the board for cash in an amount not less than the face value thereof, together with accrued interest, if any.

Approved April 4, 1994

CHAPTER 1036

HEALTH CARE FACILITIES — MEDICATION AIDES

H.F. 2354

AN ACT relating to certification of certain medication aides.

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

Section 1. NEW SECTION. 135C.33 MEDICATION AIDE — CERTIFICATION.

The department of inspections and appeals, in cooperation with other appropriate agencies, shall establish a procedure to allow a person who is certified as a medication aide in another state to become certified in this state upon completion and passage of both the certified nurse

aide and certified medication aide challenge examinations, without additional requirements for certification, including but not limited to, required employment in this state prior to certification. The department shall adopt rules pursuant to chapter 17A to administer this section.

Approved April 4, 1994

CHAPTER 1037

RECHARGEABLE BATTERIES

H.F. 2365

AN ACT relating to rechargeable batteries.

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

Section 1. Section 455D.10B, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. The ~~product, the~~ battery, the instruction manual and the product package are clearly labeled to indicate that the battery must be recycled or disposed of properly~~,~~ and ~~meets the requirements of the international standards organization (ISO 7000-1135) recycling symbol which~~ includes the designation "Cd" or "Ni-Cd" for nickel-cadmium batteries and "Pb" or "Lead" for small lead batteries.

Sec. 2. Section 455D.10B, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A manufacturer of a product that is powered by a battery that cannot be easily removed who has been granted an exemption under this subsection shall label the product as required in subsection 1, paragraph "b".

Approved April 4, 1994

CHAPTER 1038

REGULATION OF MULTIPLE EMPLOYER WELFARE ARRANGEMENTS

H.F. 2370

AN ACT relating to the exemption of certain multiple employer welfare arrangements from regulation by the insurance division and providing a repeal provision.

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

Section 1. Section 507A.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Transactions involving a multiple employer welfare arrangement, as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, paragraph 40, if the multiple employer welfare arrangement meets all of the following conditions:

a. The arrangement is administered by an authorized insurer or an authorized third-party administrator.

b. The arrangement has been in existence and provided health insurance for at least fifteen years prior to July 1, 1994.

c. The arrangement was established by a trade, industry, or professional association of employers that has a constitution or bylaws, and has been organized and maintained in good faith for at least twenty continuous years prior to July 1, 1994.

Sec. 2. NEW SECTION. 513A.8 EXCEPTION TO JURISDICTION.

A third-party payor that is a multiple employer welfare arrangement, as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, paragraph 40, that meets the criteria set forth in section 507A.4, subsection 10, is not subject to the jurisdiction of the commissioner of insurance pursuant to this chapter even though it may be subject to the jurisdiction of another agency of the state or federal government.

Sec. 3. REPEAL. This Act is repealed effective July 1, 1995.

Approved April 4, 1994

CHAPTER 1039

CORPORATE OR PARTNERSHIP FARMING – REPORTING REQUIREMENTS
H.F. 2391

AN ACT excusing reporting requirements for certain persons owning, leasing, or holding agricultural land in this state.

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

Section 1. Section 9H.5A, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A reporting entity shall be excused from filing a report with the secretary of state during any year in which the reporting entity's corporation, limited partnership, trust, or limited liability company owns, leases, and holds less than twenty acres of agricultural land in this state and the gross revenue produced from all farming on the land equals less than ten thousand dollars.

Approved April 4, 1994

CHAPTER 1040

AIR QUALITY – RULES FOR TRAINING FIRES
H.F. 2190

AN ACT relating to the asbestos testing for training fires involving asphalt shingles.

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

Section 1. Section 455B.133, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. Adopt rules allowing asphalt shingles to be burned in a fire set for the purpose of bona fide training of public or industrial employees in fire fighting methods only if a notice is provided to the director containing testing results indicating that the asphalt shingles do not contain asbestos. Each fire department shall be permitted to host two fires per year as allowed under this subsection.

Approved April 5, 1994

CHAPTER 1041

PERSONS WITH DISABILITIES – PERSONAL ASSISTANCE AND FAMILY SUPPORT SERVICES

H.F. 2302

AN ACT creating a personal assistance services program for persons with disabilities and a comprehensive family support program for families of persons with disabilities to be administered by the department of human services.

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

Section 1. LEGISLATIVE INTENT. The purpose of this Act is to ensure the inclusion of persons with disabilities in the general population, community, and work force of the state through the establishment of a personal assistance services program and a comprehensive family support program for families of persons with disabilities to be administered by the department of human services. It is intended that the use of state funds be maximized by drawing upon all sources of funding available for personal assistance services. The department of human services has been selected to administer the program in coordination with other state and local agencies in order to implement appropriate services while maximizing and distributing funding in a cost-effective manner.

Sec. 2. NEW SECTION. 225C.46 PERSONAL ASSISTANCE SERVICES PROGRAM.

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

a. (1) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(2) "Disability" does not include any of the following:

(a) Homosexuality or bisexuality.

(b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.

(c) Compulsive gambling, kleptomania, or pyromania.

(d) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

(e) Alcoholism.

b. "Major life activity" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

c. "Personal assistance services" means services performed by a person to assist an individual with a disability with tasks which that individual would typically do if the individual did not have a disability. The services are intended to enable an individual with a disability to live in the individual's home or community rather than in an institutional setting and may include but are not limited to any of the following:

(1) Dressing.

(2) Bathing.

(3) Access to and from bed or a wheelchair.

(4) Toilet assistance, including bowel, bladder, and catheter assistance.

(5) Eating and feeding.

(6) Cooking and housekeeping assistance.

(7) Employment support.

(8) Cognitive assistance with tasks such as handling money and scheduling.

(9) Fostering communication access through interpreting and reading services.

d. (1) "Substantially limits" means either of the following:

(a) Unable to perform a major life activity that the average person in the general population can perform.

(b) Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

(2) The following factors may be considered in determining whether an individual is substantially limited in a major life activity:

(a) The nature and severity of the impairment.

(b) The duration or expected duration of the impairment.

(c) The permanent or long-term impact, or expected permanent or long-term impact of or resulting from the impairment.

2. Eligibility for the personal assistance services program shall be limited to individuals with a disability, who have Iowa or federal taxable income of less than forty thousand dollars, who are residents of this state, and who are at least eighteen years of age or are emancipated minors. For the purposes of this subsection, "emancipated minor" means a person under eighteen years of age who is married or who is living separate and apart from the person's parent, regardless of the duration of the separate residence, and is managing the person's own financial affairs regardless of the source or extent of the person's income.

3. An individual served under the personal assistance services program shall determine the components of the personal assistance services to be provided with the person who is providing the services to the individual. Based upon the components determined by the individual, the department shall develop a provider contract or other means of paying for services. The components may include but are not limited to all of the following:

a. Training of the person providing services.

b. Selection of the person providing services.

c. Management of the person providing services.

d. Performance standards for the person providing services.

e. Annual review or review upon demonstration of significant changes in the circumstances of the individual being provided with personal assistance services.

4. The department shall adopt rules providing for all of the following:

a. Coordination of personal assistance service activities and funding with other state and local agencies which provide services to individuals with disabilities or funding of such services.

b. The components of contracts between individuals with disabilities being provided personal assistance services and providers of personal assistance services.

c. Upon request of an individual with disabilities, provision of assistance in locating a provider of personal assistance services for the individual.

d. Upon request of an individual with disabilities, provision of technical assistance to the individual concerning the employment of a personal assistant or contracting for services with a personal assistance service provider.

e. Procedures for disbursement of funds. Funds for the purchase of personal assistance services shall be paid directly to individuals with disabilities pursuant to a contract or by other appropriate means of payment. The rules shall include provisions to track the use of the funds and to monitor contract compliance.

f. Implementation of the program in accordance with the funding appropriated for the program.

Sec. 3. NEW SECTION. 225C.47 COMPREHENSIVE FAMILY SUPPORT PROGRAM.

1. For the purposes of this section, unless the context otherwise requires:

a. "Individual with a disability" means an individual who is less than twenty-two years of age and meets the definition of developmental disability in 42 U.S.C. § 6001.

b. "Services and support" means services or other assistance intended to enable an individual with a disability to control the individual's environment, to remain living with the individual's family, to function more independently, and to increase the integration of the individual into the individual's community. Services and support may include but are not limited to funding

for purchase of equipment, respite care, supplies, assistive technology, and payment of other costs attributable to the individual's disability which are identified by the individual's family.

2. A comprehensive family support program is created in the department of human services to provide services and support to eligible families.

3. Eligibility for the comprehensive family support program is limited to families who meet all the following conditions:

a. The family resides in the state of Iowa.

b. The family includes an individual with a disability.

c. The family expresses an intent for the family member who is an individual with a disability to remain living in the family's home.

d. The family's taxable income is less than sixty thousand dollars in the most recently completed tax year.

4. A family may apply to the department for assistance under the comprehensive family support program. The department shall determine eligibility for the program in accordance with the provisions of this section.

5. The department shall design the program in consultation with the personal assistance and family support services council created in section 225C.48. The department shall adopt rules to implement the program which provide for all of the following:

a. Eligible families maintain control of decisions which affect the families' children who are individuals with a disability.

b. Existing local agencies are utilized to provide facilities and a single entry point for comprehensive family support program applicants.

c. Technical assistance is provided to service and support providers and users.

d. State, regional, and local media are utilized to publicize the family support program.

e. A process is available to appeal the department's decisions involving families which apply for the comprehensive family support program and are denied services and support under the comprehensive family support program. The department shall make reasonable efforts to utilize telecommunications so that a family initiating an appeal may complete the appeal process in the family's local geographic area.

f. Identification of the services and support included in the comprehensive family support program.

g. Identification of payment for services and support directly to families, by voucher, or by other appropriate means to maintain family control over decision making.

h. Implementation of the program in accordance with the funding appropriated for the program.

6. Services and support provided under the comprehensive family support program shall not be used to supplant other services and support available to a family of an individual with disabilities but shall be used to meet family needs that would not be met without the program.

Sec. 4. NEW SECTION. 225C.48 PERSONAL ASSISTANCE AND FAMILY SUPPORT SERVICES COUNCIL.

1. An eleven-member personal assistance and family support services council is created in the department. The members of the council shall be appointed by the following officials as follows: governor, five members; majority leader of the senate, three members; and speaker of the house, three members. At least three of the governor's appointments and one of each legislative chamber's appointments shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the members shall be consumers of personal services. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment. The members of the council shall be entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. The council shall elect officers from among the council's members.

2. The council shall provide ongoing guidance, advice, and direction to the department and other agencies working with the department in the development and implementation of the personal assistance services program created in section 225C.46 and the comprehensive family

support program created in section 225C.47. The council shall perform an annual evaluation of each program, and annually make recommendations concerning each program to the governor and general assembly. The department shall provide sufficient staff support to the council to enable the council to carry out its responsibilities.

3. The department shall consider recommendations from the council in developing and implementing each program, including the development of administrative rules. The department shall regularly report to the council on the status of each program and any actions planned or taken by the department related to each program.

4. This section is repealed effective July 1, 1998.

Sec. 5. IMPLEMENTATION OF PERSONAL ASSISTANCE SERVICES PROGRAM AND COMPREHENSIVE FAMILY SUPPORT PROGRAM.

1. The department of human services shall perform all of the following beginning July 1, 1994, in implementing the personal assistance services program under section 225C.46 and the comprehensive family support program under section 225C.47:

a. Based upon surveys and population samples, estimate the total population of individuals who would be eligible for each program. The department shall estimate the type and quantity of disabilities present among the population estimated and by use of surveys, interviews, and consultation with individuals with disabilities identify the desired components of personal assistance services contracts. The department shall initially develop a master contract and develop procedures to adapt the master contract to individual needs. For the comprehensive family support program, the department shall develop a payment system for services and supports which provides payment directly to families or utilizes vouchers or other payment mechanisms which maintain the decision-making ability of families. The department may use outside technical assistance or a consultant in implementing the provisions of this paragraph.

b. Identify and develop a working group of state and local agencies which are experienced in working with individuals with disabilities to develop a budget and funding plan for each program which may provide for incrementally implementing either or both programs over two or more fiscal years. The department may establish a separate working group for each program. Working group members shall include but are not limited to representatives of regional planning councils, Iowa governor's planning council for developmental disabilities, Iowa state association of counties, vocational rehabilitation division of the department of education, and independent living centers. The department shall coordinate its development activities for the personal assistance services program and the comprehensive family support program with the working group and provide for the input of the personal assistance and family support services council created in section 225C.48.

c. On or before November 1, 1994, develop a budget and funding plan and program design for state and federal funding of the personal assistance services program based upon the contract components identified pursuant to paragraph "a". The department shall not propose a budget and funding plan and program design which would create an unfunded mandate for counties. The budget and funding plan and program design shall be submitted to the governor and the general assembly for consideration and approval by the Seventy-sixth General Assembly, 1995 Session. The budget and funding plan and program design shall also be submitted for consideration by state agencies which may be subject to budget revision due to implementation of the program. The funding plan and budget shall include the following provisions:

(1) Cost offsets based upon the ability of an individual to pay.

(2) Integration of the personal assistance services program with other programs and assistance available to individuals with disabilities so as to avoid duplication and to maximize the use of financial resources.

(3) Inclusion of regional planning councils in the implementation of the personal assistance services program.

(4) Recommendations for developing medical assistance waivers and state plan amendments such as coverage of personal assistance services in order to maximize the potential for federal funding of the personal assistance services program.

(5) Recommendations to ensure that the program is able to operate within appropriated funds.

d. Beginning July 1, 1995, conduct final reviews and planning for implementation of individual personal assistance services contracts on January 1, 1996. Based upon financial resources available for the program and the relative cost and benefit of a particular service, the department shall negotiate the actual services to be included in a contract with the individual who will receive the personal assistance services under that contract.

e. On or before June 15, 1995, submit a budget and funding plan and program design for state and federal funding of the comprehensive family support program. The budget and funding plan and program design shall include the same provisions as required for the personal assistance program in paragraph "c". The department shall not propose a budget and funding plan and program design which would create an unfunded mandate for counties.

2. The initial terms of the personal assistance and family support services council created in section 225C.48 shall be as follows:

a. The governor shall appoint three members to a one-year term, one member to a two-year term, and one member to a three-year term.

b. The majority leader of the senate and the speaker of the house shall each appoint one member to a two-year term and two members to a three-year term.

Sec. 6. IMPLEMENTATION. Implementation of the comprehensive family support program in section 225C.47 as enacted by this Act shall be delayed until July 1, 1996, and is subject to the availability of funding appropriated for the program. However, if funding is available from a source other than the state, including but not limited to federal or private grants, the department, in consultation with the personal assistance and family support council, may institute pilot projects in one or more counties during the fiscal year beginning July 1, 1995, to test the comprehensive family support program. The council shall provide an evaluation of any pilot program and report the results to the governor and the general assembly.

Approved April 5, 1994

CHAPTER 1042

LEGISLATIVE REDISTRICTING STANDARDS

H.F. 109

AN ACT lowering the priority of the standard requiring legislative district boundaries to follow congressional district lines.

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

Section 1. Section 42.4, subsection 6, Code 1993, is amended to read as follows:

6. In order to minimize electoral confusion and to facilitate communication within state legislative districts, each plan drawn under this section shall provide that each representative district is wholly included within a single senatorial district and that, so far as possible, each representative and each senatorial district shall be included within a single congressional district. However, the standards established by subsections 1 through 5 shall take precedence where a conflict arises between these standards and the requirement, so far as possible, of including a senatorial or representative district within a single congressional district.

Approved April 8, 1994

CHAPTER 1043

MINIMUM SCHOOL DAY

H.F. 2033

AN ACT requiring the state board of education to define the minimum school day.

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

Section 1. Section 256.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 24. Define the minimum school day as a day consisting of five and one-half hours of instructional time for grades one through twelve. The minimum hours shall be exclusive of the lunch period, but may include passing time between classes. Time spent on parent-teacher conferences shall be considered instructional time. A school or school district may record a day of school with less than the minimum instructional hours as a minimum school day if any of the following apply:

a. If emergency health or safety factors require the late arrival or early dismissal of students on a specific day.

b. If the total hours of instructional school time for grades one through twelve for any five consecutive school days equal a minimum of twenty-seven and one-half hours, even though any one day of school is less than the minimum instructional hours because of a staff development opportunity provided for the professional instructional staff or because parent-teacher conferences have been scheduled beyond the regular school day.

Approved April 8, 1994

CHAPTER 1044

SANITARY LANDFILLS – LIEN FOR CLOSURE OR POSTCLOSURE CARE

H.F. 2055

AN ACT imposing a lien for city or county expenditures for closure or postclosure care of sanitary landfills.

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

Section 1. Section 455B.302, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A city or county which provides closure or postclosure care on the premises of a sanitary landfill owned by a private agency, shall have a lien upon the property to secure payment for the amount of materials and labor expended by the city or county to perform the required closure or postclosure care on the premises. The lien shall be recordable and collectable in the same manner as provided in section 424.11. The lien shall attach at the time the city or county incurs expenses to provide closure or postclosure care on the premises of the sanitary landfill. The lien shall be valid as against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, only upon filing a notice of the lien with the recorder of the county in which the property is located. Upon payment, the city or county shall release the lien. If no lien has been recorded at the time the property is sold or transferred, the property shall not be subject to a lien or claim for any closure or postclosure costs incurred by the city or county.

Approved April 8, 1994

CHAPTER 1045

TRUSTEES OF SANITARY DISTRICTS
H.F. 2199

AN ACT relating to the number and election of sanitary district trustees.

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

Section 1. Section 358.9, Code Supplement 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If the petition to establish a sanitary district requests a board of trustees of five members, the board of supervisors shall select five trustees from among the seven persons receiving the highest number of votes at the initial election. Two 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, two trustees 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 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 a five-member board selected under this paragraph shall be chosen by election and 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 commissioner of county elections at least sixty-nine days before the date of the general election. The form of the candidate's affidavit shall be substantially as provided in section 45.3.

NEW UNNUMBERED PARAGRAPH. Upon request of a three-member board of trustees or petition of the number of eligible electors of the district equal to at least five percent of the residents of the district filed at least ninety days before the next general election, the board of supervisors shall provide for the election of a five-member board of trustees with staggered terms of office of not more than six years. The five-member board of trustees shall become effective on the first day of January which is not a Sunday or legal holiday after that general election. The board of trustees or a petition of the number of eligible electors of the district equal to at least five percent of the residents of the district may also request the board of supervisors to implement a plan to reduce the number of trustees from five to three. The board of supervisors shall allow incumbent trustees to serve their unexpired terms of office.

Approved April 8, 1994

CHAPTER 1046

TERMS DESCRIBING PARENTS, CHILDREN, AND SIBLINGS
H.F. 2217

AN ACT relating to changes in terms used to describe parents, children, siblings, and their relationships to one another.

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

Section 1. Section 232.2, subsection 4, paragraph c, Code Supplement 1993, is amended to read as follows:

c. The care and services that will be provided to the child, ~~natural~~ biological parents, and foster parents.

Sec. 2. Section 232.2, subsection 39, Code Supplement 1993, is amended to read as follows:

39. "Parent" means a ~~natural~~ biological or adoptive mother or father of a child but does not include a mother or father whose parental rights have been terminated.

Sec. 3. Section 232.117, subsection 3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the court concludes that facts sufficient to sustain the petition have been established by clear and convincing evidence, the court may order parental rights terminated. If the court terminates the parental rights of the child's ~~natural or adoptive~~ parents, the court shall transfer the guardianship and custody of the child to one of the following:

Sec. 4. Section 234.41, Code 1993, is amended to read as follows:

234.41 TORT ACTIONS.

A foster parent licensed by the department of human services stands in the same relationship to the foster parent's minor foster child, for purposes of tort actions by or on behalf of the foster child against the foster parent, as a ~~natural~~ biological parent to the ~~natural~~ biological parent's minor child who resides at home. This section does not apply to a foster parent whose malicious, willful and wanton conduct causes injury or damage to a foster child or exposes the foster child to a danger caused by violation of a statute or the rules of the department of human services.

Sec. 5. Section 237.3, subsection 2, paragraph h, Code Supplement 1993, is amended to read as follows:

h. Policies for involvement of ~~natural~~ biological parents.

Sec. 6. Section 237.15, subsection 1, paragraph c, Code 1993, is amended to read as follows:

c. The care and services that will be provided to the child, ~~natural~~ biological parents, and foster parents.

Sec. 7. Section 237.22, subsection 4, Code 1993, is amended to read as follows:

4. The care and services that will be provided to the child, ~~natural~~ biological parents, and foster parents.

Sec. 8. Section 238.1, subsection 2, paragraph c, Code 1993, is amended to read as follows:

c. The care and services that will be provided to the child, ~~natural~~ biological parents, and foster parents.

Sec. 9. Section 422.9, subsection 2, paragraph c, Code 1993, is amended to read as follows:

c. Add the amount by which expenses paid or incurred in connection with the adoption of a child by the taxpayer exceed three percent of the net income of the taxpayer, or of the taxpayer and spouse in the case of a joint return. The expenses may include medical and hospital expenses of the ~~natural~~ biological mother which are incident to the child's birth and are paid by the taxpayer, welfare agency fees, legal fees, and all other fees and costs relating to the adoption of a child if the child is placed by a child-placing agency licensed under chapter 238 or by a person making an independent placement according to the provisions of chapter 600.

Sec. 10. Section 450.9, subsection 2, Code 1993, is amended to read as follows:

2. Each son and daughter, including legally adopted sons and daughters, or ~~illegitimate~~ biological sons and daughters entitled to inherit under the law of this state, fifty thousand dollars.

Sec. 11. Section 450.10, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

When the property, interest, or income passes to the father or mother, or to a child or lineal descendant of the decedent, grantor, donor, or vendor, including a legally adopted child or ~~illegitimate~~ biological child entitled to inherit under the laws of this state, the tax imposed shall be on the individual share so passing in excess of the exemptions allowed as follows:

Sec. 12. Section 600.2, subsection 1, Code 1993, is amended to read as follows:

1. "Child", "parent", "parent-child relationship", "termination of parental rights", "~~natural~~ biological parent", "stepparent", "guardian", "custodian", "guardian ad litem", "minor", "adult", "agency", "department", "court", "juvenile court", "independent placement" mean the same as defined in section 600A.2.

Sec. 13. Section 600.8, subsection 1, paragraph c, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A background information investigation and a report of this investigation shall not disclose the identity of the ~~natural~~ biological parents of the minor person to be adopted and shall answer the following:

Sec. 14. Section 600.9, subsection 1, paragraphs c and d, Code 1993, are amended to read as follows:

c. Medical care received by the ~~natural~~ biological parents or the minor person during the pregnancy or delivery of the minor person.

d. Any other services relating to the adoption or to the placement of the minor person which were received by or on behalf of the petitioner, the ~~natural~~ biological parents, or any other person, including legal fees.

Sec. 15. Section 600.9, subsection 2, Code 1993, is amended to read as follows:

2. A ~~natural~~ biological parent shall not receive any thing of value as a result of the ~~natural~~ biological parent's child or former child being placed with and adopted by another person, unless that thing of value is commensurate with some necessary service provided the ~~natural~~ biological parent in relation to childbirth, child raising, or delivering the child for adoption. Any person assisting in any way with the placement or adoption of a minor person shall not charge a fee which is more than usual, necessary, and commensurate with the services rendered. If the ~~natural~~ biological parent receives any prohibited thing of value, if a person gives a prohibited thing of value, or if a person charges a prohibited fee under this subsection, each such person shall be, upon conviction, guilty of a simple misdemeanor.

Sec. 16. Section 600.16, subsection 2, Code 1993, is amended to read as follows:

2. Information regarding an adopted person's existing medical and developmental history and family medical history, which meets the definition of background information in section 600.8, subsection 1, paragraph "c", shall be made available as provided in subsection 1. However, the identity of the adopted person's ~~natural~~ biological parents shall not be disclosed.

Sec. 17. Section 600.16A, subsections 2 and 3, Code 1993, are amended to read as follows:

2. All papers and records pertaining to a termination of parental rights under chapter 600A and to an adoption shall not be open to inspection and the identity of the ~~natural~~ biological parents of an adopted person shall not be revealed except under any of the following circumstances:

a. An agency involved in placement shall contact the adopting parents or the adult adopted child regarding eligibility of the adopted child for benefits based on entitlement of benefits or inheritance from the terminated ~~natural~~ biological parents.

b. The court, for good cause, shall order the opening of the permanent adoption record of the court for the adopted person who is an adult and reveal the names of either or both of the ~~natural~~ biological parents following consideration of both of the following:

(1) A ~~natural~~ biological parent may file an affidavit requesting that the court reveal or not reveal the parent's identity. The court shall consider any such affidavit in determining whether there is good cause to order opening of the records. To facilitate the ~~natural~~ biological parents in filing an affidavit, the department shall, upon request of a ~~natural~~ biological parent, provide the ~~natural~~ biological parent with an adoption information packet containing an affidavit for completion and filing with the court.

(2) If the adopted person who applies for revelation of the ~~natural~~ biological parents' identity has a sibling who is a minor and who has been adopted by the same parents, the court may deny the application on the grounds that revelation to the applicant may also indirectly and harmfully permit the same revelation to the applicant's minor sibling.

c. A ~~natural~~ biological sibling of an adopted person may file or may request that the department file an affidavit in the court in which the adopted person's adoption records have been sealed requesting that the court reveal or not reveal the sibling's name to the adopted person. The court shall consider any such affidavit in determining whether there is good cause to order opening of the records upon application for revelation by the adopted person. However, the name of the ~~natural~~ biological sibling shall not be revealed until the ~~natural~~ biological sibling has attained majority.

d. The juvenile court or court may, upon competent medical evidence, open termination or adoption records if opening is shown to be necessary to save the life of or prevent irreparable physical or mental harm to an adopted person or the person's offspring. The juvenile court or court shall make every reasonable effort to prevent the identity of the ~~natural~~ biological parents from becoming revealed under this paragraph to the adopted person. The juvenile court or court may, however, permit revelation of the identity of the ~~natural~~ biological parents to medical personnel attending the adopted person or the person's offspring. These medical personnel shall make every reasonable effort to prevent the identity of the ~~natural~~ biological parents from becoming revealed to the adopted person.

3. In addition to other procedures by which adoption records may be opened under this section, if both of the following conditions are met, the department, the clerk of court, or the agency which made the placement shall open the adoption record for inspection and shall reveal the identity of the ~~natural~~ biological parents to the adult adopted child or the identity of the adult adopted child to the ~~natural~~ biological parents:

a. A ~~natural~~ biological parent has placed in the adoption record written consent to revelation of the ~~natural~~ biological parent's identity to the adopted child at an age specified by the ~~natural~~ biological parent, upon request of the adopted child.

b. An adult adopted child has placed in the adoption record written consent to revelation of the identity of the adult adopted child to a ~~natural~~ biological parent.

A person who has placed in the adoption record written consent pursuant to paragraph "a" or "b" of this subsection may withdraw the consent at any time by placing a written withdrawal of consent statement in the adoption record.

Notwithstanding the provisions of this subsection, if the adult adopted person has a sibling who is a minor and who has also been adopted by the same parents, the department, the clerk of court, or the agency which made the placement may deny the request of either the adult adopted person or the ~~natural~~ biological parent to open the adoption records and to reveal the identities of the parties pending determination by the court that there is good cause to open the records pursuant to subsection 2.

Sec. 18. Section 600.24, subsection 1, Code 1993, is amended to read as follows:

1. The identity of the ~~natural~~ biological parents of the adopted person is concealed from the person gaining access to the records.

Sec. 19. Section 600A.2, subsection 12, Code 1993, is amended to read as follows:

~~12~~ 2A. "~~Natural~~ Biological parent" means a parent who has been a biological party to the procreation of the child.

Sec. 20. Section 600A.5, subsection 2, Code 1993, is amended to read as follows:

2. A petition for termination of parental rights shall be filed with the juvenile court in the county in which the guardian or custodian of the child resides or the child, the ~~natural~~ biological mother or the pregnant woman is domiciled. If a juvenile court has made an order pertaining to a minor child under chapter 232, division III and that order is still in force, the termination proceedings shall be conducted pursuant to the provisions of chapter 232, division IV.

Sec. 21. Section 600A.6, subsection 1, Code 1993, is amended to read as follows:

1. A termination of parental rights under this chapter shall, unless provided otherwise in this section, be ordered only after notice has been served on all necessary parties and these

parties have been given an opportunity to be heard before the juvenile court except that notice need not be served on the petitioner or on any necessary party who is spouse of the petitioner. "Necessary party" means any person whose name, residence, and domicile are required to be included on the petition under section 600A.5, subsection 3, paragraphs "a" and "b", except a ~~natural~~ biological parent who has been convicted of having sexually abused the other ~~natural~~ biological parent while not cohabiting with that parent as husband and wife, thereby producing the birth of the child who is the subject of the termination proceedings.

Sec. 22. Section 600B.5, Code 1993, is amended to read as follows:

600B.5 DISCHARGE OF FATHER'S OBLIGATION.

The obligation of the father other than that under the laws providing for the support of poor relatives is discharged by complying with a judicial decree for support or with the terms of a judicially approved settlement. The legal adoption of a child into another family discharges the obligation for the period subsequent to the adoption, unless the adoption was fraudulently induced and the adoptive father's parental rights have been terminated and the order terminating the ~~natural~~ biological father's parental rights has been vacated in accordance with the procedures set out in section 600A.9, subsection 3.

Sec. 23. Section 600B.35, Code 1993, is amended to read as follows:

600B.35 REFERENCE TO ILLEGITIMACY PROHIBITED.

In all records, certificates, or other papers ~~hereafter~~ made or executed, other than birth records and certificates or records of judicial proceedings in which the question of birth out of wedlock is at issue, requiring a declaration by or notice to the mother of a child born out of wedlock, it shall be sufficient for all purposes to refer to the mother as the parent having the sole custody of the child or to the child as being in the sole custody of the mother and no explicit reference shall be made to illegitimacy, and the term ~~natural~~ biological shall be deemed equivalent to the term illegitimate when referring to parentage or birth out of wedlock.

Sec. 24. Section 600B.36, Code 1993, is amended to read as follows:

600B.36 REPORT TO REGISTRAR OF VITAL STATISTICS.

Upon the entry of a judgment determining the paternity of ~~an illegitimate~~ a child the clerk of the district court shall notify in writing the state registrar of vital statistics of the name of the person against whom such judgment has been entered, together with such other facts disclosed by the records as may assist in identifying the record of the birth of the child as the same may appear in the office of said registrar. If such judgment shall thereafter be vacated that fact shall be reported by the clerk in the same manner.

Sec. 25. Section 602.8102, subsection 119, Code Supplement 1993, is amended to read as follows:

119. Notify the state registrar of vital statistics of a judgment determining the paternity of ~~an illegitimate~~ a child as provided in section 600B.36.

Sec. 26. Section 633.3, subsections 5 and 23, Code 1993, are amended to read as follows:

5. Child — includes an adopted child but does not include a grandchild or other more remote descendants, nor, except as provided in sections 633.221 and 633.222, ~~an illegitimate~~ a biological child.

23. Issue — for the purposes of intestate succession, includes all lawful lineal descendants of a person, whether ~~natural~~ biological or adopted, except those who are the lineal descendants of the person's living descendants.

Sec. 27. Section 633.221, Code 1993, is amended to read as follows:

633.221 ~~ILLEGITIMATE~~ BIOLOGICAL CHILD — INHERIT FROM MOTHER.

Unless the child has been adopted, ~~an illegitimate~~ a biological child shall inherit from the child's ~~natural~~ biological mother, and she from the child.

Sec. 28. Section 633.222, Code 1993, is amended to read as follows:

633.222 ~~ILLEGITIMATE~~ BIOLOGICAL CHILD — INHERIT FROM FATHER.

Unless the child has been adopted, ~~an illegitimate~~ a biological child inherits from the child's ~~natural~~ biological father if the evidence proving paternity is available during the father's lifetime, or if the child has been recognized by the father as his child; but the recognition must have been general and notorious, or in writing. Under such circumstances, if the recognition has been mutual, and the child has not been adopted, the father may inherit from his ~~illegitimate~~ biological child.

Sec. 29. Section 633.223, Code 1993, is amended to read as follows:

633.223 EFFECT OF ADOPTION.

1. Except as provided in subsection 3, a lawful adoption extinguishes the right of intestate succession of an adopted person from and through the adopted person's ~~natural~~ biological parents. The adopted person inherits from and through the adoptive parents in the same manner as a ~~natural born~~ biological child inherits from and through the child's ~~natural~~ biological parents.

2. Except as provided in subsection 3, a lawful adoption extinguishes the right of intestate succession of a ~~natural~~ biological parent from and through the parent's ~~natural born~~ biological child who is adopted. The adoptive parents inherit from and through the adopted person in the same manner as ~~natural~~ biological parents inherit from and through the parents' ~~natural born~~ biological child.

3. An adoption of a person by the spouse or surviving spouse of a ~~natural~~ biological parent has no effect on the relationship for inheritance purposes between the adopted person and that ~~natural~~ biological parent or ~~natural~~ biological parent's heirs. An adoption of a person by the spouse or surviving spouse of a ~~natural~~ biological parent after the death of the other ~~natural~~ biological parent has no effect on the relationship for inheritance purposes between the adopted person and the deceased ~~natural~~ biological parent's heirs.

4. A person inherits through an adopted person, an adoptive parent, or a ~~natural~~ biological parent of an adopted person only if the adopted person, adoptive parent, or ~~natural~~ biological parent of an adopted person would have inherited under subsection 1, 2, or 3.

Sec. 30. Section 595.18, Code 1993, is amended to read as follows:

595.18 ISSUE LEGITIMATIZED.

~~Illegitimate children~~ Children born outside of a marriage become legitimate by the subsequent marriage of their parents. Children born of a marriage contracted in violation of section 595.3 or 595.19 are legitimate.

Approved April 8, 1994

CHAPTER 1047

ARREST — RECEIPT FOR DEFENDANT'S PROPERTY

H.F. 2267

AN ACT eliminating the requirement that a duplicate receipt for property taken incident to an arrest be filed with the clerk of the district court.

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

Section 1. Section 804.19, Code 1993, is amended to read as follows:

804.19 RECEIPT GIVEN.

When money or other property is taken from the defendant arrested on a charge of a public offense, the officer taking it shall, at the time, give duplicate receipts therefor, specifying particularly the amount of money and the kind of property taken; ~~one of which receipts the~~. The officer ~~must~~ shall deliver one of the receipts to the defendant, and ~~the other the officer must forthwith file with the clerk of the district court of the county where the depositions and statements are to be sent by the magistrate~~ shall retain the other receipt with the defendant's file.

Approved April 8, 1994

CHAPTER 1048

REVOCATIONS OF PAROLE AND WORK RELEASE

H.F. 2270

AN ACT relating to revocations of parole and work release, by permitting reductions in credits against a parolee's sentence at a parole revocation hearing, and providing for the automatic revocation of parole for a parolee convicted and sentenced to incarceration for an aggravated misdemeanor.

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

Section 1. Section 906.16, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

906.16 PAROLE OR WORK RELEASE TIME APPLIED.

1. Except as otherwise provided in this section, the time when a prisoner is on parole or work release from the institution shall apply to the sentence against the parolee or work releasee.

2. If a parole revocation hearing is held, the administrative parole judge or the board of parole shall determine the amount of time on parole that shall apply to the sentence against the parolee. In making the determination, the administrative parole judge or the board of parole shall apply any time that has elapsed prior to the violation during which the parolee was in compliance with the terms of the person's parole.

3. If a work release is revoked, the board of parole shall determine the amount of time on work release that shall apply to the sentence against the work releasee. In making the determination, the board shall apply any time that has elapsed prior to the violation during which the work releasee was in compliance with the terms of the person's work release.

4. The time when a prisoner is absent from the institution by reason of an escape shall not apply upon the sentence against the prisoner.

Sec. 2. NEW SECTION. 908.10A CONVICTION OF AN AGGRAVATED MISDEMEANOR WHILE ON PAROLE.

When a person is convicted and sentenced to incarceration in a state correctional institution in this state for an aggravated misdemeanor committed while on parole, or is convicted

and sentenced to incarceration under the laws of any other state of the United States or a foreign government or country for an offense committed while on parole, and which if committed in this state would be an aggravated misdemeanor, the person's parole shall be deemed revoked as of the date of the commission of the new aggravated misdemeanor offense.

The parole officer shall inform the sentencing judge that the convicted defendant is a parole violator. The term for which the defendant shall be imprisoned as a parole violator shall be the same as that provided in cases of revocation of parole for violation of the conditions of parole. The new sentence of imprisonment for conviction of an aggravated misdemeanor shall be served consecutively with the term imposed for the parole violation, unless a concurrent term of imprisonment is ordered by the court.

The parolee shall be notified in writing that parole has been revoked on the basis of the new aggravated misdemeanor conviction, and a copy of the commitment order shall accompany the notification. The inmate's record shall be reviewed pursuant to the provisions of section 906.5, or as soon as practical after a final reversal of the new aggravated misdemeanor conviction.

An inmate may appeal the revocation of parole under this section according to the board of parole's rules relating to parole revocation appeals. Neither the administrative parole judge nor the board panel shall retry the facts underlying any conviction.

Approved April 8, 1994

CHAPTER 1049

LIMITED LIABILITY PARTNERSHIPS

H.F. 2280

AN ACT establishing limited liability partnerships and providing a fee.

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

Section 1. Section 486.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. "Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the laws of this state, registered under section 486.44, and complying with sections 486.45 and 486.46.

Sec. 2. Section 486.6, subsection 1, Code 1993, is amended to read as follows:

1. A partnership is an association of two or more persons to carry on as co-owners a business for profit, and includes a registered limited liability partnership.

Sec. 3. Section 486.15, Code 1993, is amended to read as follows:

486.15 NATURE OF PARTNER'S LIABILITY.

1. ~~All~~ Except as otherwise provided in this section, all partners are liable:

~~1~~ a. Jointly and severally for everything chargeable to the partnership under sections 486.13 and 486.14.

~~2~~ b. Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

2. A partner in a registered limited liability partnership is not liable directly or indirectly, including by way of indemnification, contribution, or otherwise, for debts, obligations, and liabilities chargeable to the partnership arising from negligence, wrongful acts, or misconduct, which occurs while the partnership is a registered limited liability partnership and which also occurs in the course of the partnership's business, by another partner or an employee, agent, or representative of the partnership. However, this section shall not affect the liability of a partner in a registered limited liability partnership for the partner's own negligence, wrongful acts, or misconduct, or for the negligence, wrongful acts, or misconduct of any person under the partner's direct supervision and control.

Sec. 4. Section 486.18, subsection 1, Code 1993, is amended to read as follows:

1. Each partner shall be repaid the partner's contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute towards the losses, whether of capital or otherwise, sustained by the partnership according to the partner's share in the profits to the extent of such partner's liability as provided in section 486.15.

Sec. 5. Section 486.34, Code 1993, is amended to read as follows:

486.34 RIGHT OF PARTNER TO CONTRIBUTION FROM COPARTNERS AFTER DISSOLUTION.

Where the dissolution is caused by the act, death, or bankruptcy of a partner, each partner is liable to that partner's copartners for that partner's share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless any of the following apply:

1. The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, ~~or~~.

2. The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy.

3. The liability created is for a debt, obligation, or liability for which the partner is not liable pursuant to section 486.15.

Sec. 6. Section 486.36, subsection 4, Code 1993, is amended to read as follows:

4. The individual property of a deceased partner ~~shall be~~ is liable for all obligations of the partnership incurred while the deceased partner was a partner, as provided in section 486.15, but subject to the prior payment of the deceased partner's separate debts.

Sec. 7. Section 486.40, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. The contributions of the partners necessary for the payment of all the liabilities specified in subsection ~~2~~ 4.

Sec. 8. Section 486.40, subsection 4, Code 1993, is amended to read as follows:

4. The partners shall contribute, as provided by section 486.18, ~~subsection 1,~~ the amount necessary to satisfy the liabilities; but if any, but not all of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities to the extent the partners which are insolvent or not subject to process would be liable pursuant to section 486.18.

Sec. 9. NEW SECTION. 486.44 REGISTERED LIMITED LIABILITY PARTNERSHIPS.

1. A partnership shall file with the secretary of state an application or a renewal application, to become or to continue as a registered limited liability partnership, as the case may be, stating the name of the partnership; the address of its principal office, if the partnership's principal office is not located in this state; the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership is required to maintain; the number of partners; a brief statement of the business in which the partnership is engaged; and that the partnership is applying to become or renew its status as a registered limited liability partnership.

2. The application or renewal application shall be executed by a majority in interest of the partners or by one or more partners authorized to execute an application or renewal application.

3. The application or renewal application shall be accompanied by a fee of one hundred dollars.

4. The secretary of state shall register as a registered limited liability partnership, or shall renew the registration of any registered limited liability partnership, any partnership that submits a completed application or renewal application with the required fee.

5. Registration is effective for one year after the date an application is filed, unless voluntarily withdrawn by filing with the secretary of state a written withdrawal notice executed by a majority in interest of the partners or by one or more partners authorized to execute a withdrawal notice. Registration as a registered limited liability partnership is renewed if, during the sixty-day period preceding or the one-year period following the date the application or renewal application otherwise would have expired, the partnership files with the secretary of state a renewal application. A renewal application filed pursuant to this subsection expires one year after the date the previous registration period would have expired if the renewal had not been filed.

6. The status of a partnership as a registered limited liability partnership shall not be affected by changes after the filing of an application or a renewal application in the information stated in the application or renewal application.

7. The secretary of state shall provide forms for application and renewal of registration pursuant to this section.

Sec. 10. NEW SECTION. 486.45 NAME OF REGISTERED LIMITED LIABILITY PARTNERSHIP.

The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or the abbreviation "L.L.P." as the last words or letters of its name.

Sec. 11. NEW SECTION. 486.46 APPLICABILITY TO FOREIGN AND INTERSTATE COMMERCE.

1. A partnership, including a registered limited liability partnership, formed and existing under this chapter, may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

2. It is the intent of the general assembly that the legal existence of a registered limited liability partnership formed and existing under this chapter be recognized outside the boundaries of this state and that the laws of this state governing such registered limited liability partnerships transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

3. It is the policy of this state that the internal affairs of partnerships, including registered limited liability partnerships, formed and existing under this chapter, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this state.

4. Subject to any statutes for the regulation and control of specific types of business, registered limited liability partnerships formed and existing under the laws of another jurisdiction, may do business in this state and are not required to register with the secretary of state pursuant to this chapter.

5. It is the policy of this state that the internal affairs of partnerships, including registered limited liability partnerships, formed and existing under the laws of another jurisdiction, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of such other jurisdiction.

Approved April 8, 1994

CHAPTER 1050

CLERKS OF COURT – PROBATE SCHEDULING ORDERS
H.F. 2284

AN ACT authorizing clerks of the district court to enter scheduling orders in probate matters.

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

Section 1. Section 633.22, Code 1993, is amended by adding the following new subsection:
NEW SUBSECTION. 6. The entering of routine scheduling orders in probate matters as established by the chief judge in each judicial district.

Approved April 8, 1994

CHAPTER 1051

ADMINISTRATION OF DRAINAGE DISTRICTS
H.F. 2313

AN ACT providing for the administration of drainage districts, and providing for assessments.

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

Section 1. Section 468.10, subsections 4 and 5, Code 1993, are amended to read as follows:
~~4. Assistants may be employed by the engineer only with the approval of the board, which shall fix their compensation.~~
~~5~~ 4. The engineer shall keep an accurate record of the kind of work done by the engineer ~~and each assistant~~, the place where done, and the time engaged therein, and shall file an itemized statement thereof with the auditor. No expenses shall be incurred by the engineer except upon authority of the board, and vouchers shall be filed with the claims therefor.

Sec. 2. Section 468.34, Code 1993, is amended to read as follows:
468.34 ADVERTISEMENT FOR BIDS.
The board shall publish notice once each week for two consecutive weeks in a newspaper published in the county where the improvement is located, and publish additional advertisement and publication elsewhere as the board may direct. The notice shall state the time and place of letting the work of construction of the improvement, specifying the approximate amount of work to be done in each numbered section of the district, the time fixed for the commencement, and the time of the completion of the work, that bids will be received on the entire work and in sections or divisions of it, and that a bidder will be required to deposit with the bid cash, a certified check on and certified by a bank in Iowa, or a certified share draft from a credit union in Iowa payable to the auditor or the auditor's order, at the auditor's office, in an amount equal to ten percent of the bid, in no case to exceed ten thousand dollars. If the estimated cost of the improvement exceeds fifteen thousand dollars, the board may make additional publication for two consecutive weeks in a contractors' journal of general circulation, giving only the type of proposed construction or repairs, estimated amount, date of letting, amount of bidder's bond, and name and address of the county auditor. All notices shall fix the date to which bids will be received and upon which the work will be let. However, when the estimated cost of the improvement is less than ~~five~~ ten thousand dollars, the board may let the contract for the construction without taking bids and without publishing notice.

Sec. 3. Section 468.35, subsection 2, Code 1993, is amended to read as follows:
2. A bid shall be in writing, specifying the portion of the work upon which the bid is made, and filed with the auditor. The bid shall be accompanied with a bid security. The bid security

shall be in the form of a deposit of cash, ~~or~~ a certified check on and certified by a bank in Iowa, ~~or~~ a certified share draft drawn on a credit union in Iowa, or a bid bond with a corporate surety satisfactory to the board as provided in section 73A.20. The bid security must be payable to the auditor or the auditor's order at the auditor's office in a sum equal to ten percent of the amount of the bid, but not to exceed ten thousand dollars. However, if the maximum limit on a bid ~~deposits~~ security would cause a denial of funds or services from the federal government which would otherwise be available, or if the maximum limit would otherwise be inconsistent with the requirements of federal law, the maximum limit may be suspended to the extent necessary to prevent denial of federal funds or services or to eliminate the inconsistency with federal requirements. The ~~checks~~ cash, check, or share ~~drafts~~ draft of an unsuccessful ~~bidders~~ bidder shall be returned ~~to them, but the checks~~ and the bid bond of an unsuccessful bidder shall be canceled. The bid security of a successful ~~bidders~~ bidder shall be ~~held~~ maintained as a guarantee that ~~they~~ the bidder will enter into contract in accordance with ~~their~~ the bids.

Sec. 4. Section 468.50, Code 1993, is amended to read as follows:

468.50 LEVY — INTEREST.

When the board has finally determined the matter of assessments of benefits and apportionment, ~~it~~ the board shall levy the assessments as fixed by it upon the lands within the district, but an assessment on a tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars. All assessments shall be levied at that time as a tax and shall bear interest at not to exceed the rate permitted by chapter 74A from that date, payable annually, except as provided as to cash payments within a specified time.

Sec. 5. Section 468.52, Code 1993, is amended to read as follows:

468.52 LEVY FOR DEFICIENCY.

If the first assessment made by the board for the original cost or for repairs of any improvement is insufficient, the board shall make an additional assessment and levy in the same ratio as the first for either purpose, payable at the next taxpaying period after such indebtedness is incurred subject, however, to the provisions of section 468.57. Any assessment made under this section on any tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 6. Section 468.66, Code 1993, is amended to read as follows:

468.66 BIDS REQUIRED.

In case the board shall finally determine that any such changes as defined in section 468.62 shall be made involving an expenditure of ~~five~~ ten thousand dollars or more, ~~said~~ the work shall be let by bids in the same manner as is provided for the original construction of such improvements.

Sec. 7. Section 468.126, subsection 2, Code 1993, is amended to read as follows:

2. In the case of minor repairs, or in the eradication of brush and weeds along the open ditches, not in excess of ~~five~~ ten thousand dollars where the board finds that a saving to the district will result ~~it~~ the board may cause the repairs or eradication to be done by secondary road equipment, or weed fund equipment, and labor of the county and then reimburse the secondary road fund or the weed fund from the fund of the drainage district thus benefited.

Sec. 8. Section 468.126, subsection 4, paragraph a, Code 1993, is amended to read as follows:

a. When the board determines that improvements are necessary or desirable, ~~it~~ the board shall appoint an engineer to make surveys as seem appropriate to determine the nature and extent of the needed improvements, and to file a report showing what improvements are recommended and their estimated costs, which report may be amended before final action. If the estimated cost of the improvements does not exceed ~~five~~ ten thousand dollars, or twenty-five percent of the original cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done without notice. ~~If the estimated cost of the improvements does not exceed ten thousand dollars or twenty-five percent of the original~~

~~cost of the district and subsequent improvements, whichever is the greater amount, the board may order the work done after holding a hearing and publishing notice of that hearing in a newspaper of general circulation published in the county not less than twenty days before the day set for the hearing. The board shall also mail a copy of the notice to any state agency which is a landowner in the district.~~ The board shall not divide proposed improvements into separate programs in order to avoid the limitation for making improvements without notice. If the board deems it desirable to make improvements where the estimated cost exceeds the ten thousand dollar or twenty-five percent limit, ~~it~~ the board shall set a date for a hearing on the matter of constructing the proposed improvements and also on the matter of whether there shall be a reclassification of benefits for the cost of the proposed improvements, and shall give notice as provided in sections 468.14 through 468.18. At the hearing the board shall hear objections to the feasibility of the proposed improvements and arguments for or against a reclassification presented by or for any taxpayer of the district. Following the hearing the board shall order that the improvements it deems desirable and feasible be made, and shall also determine whether there should be a reclassification of benefits for the cost of improvements. If it is determined that a reclassification of benefits should be made the board shall proceed as provided in section 468.38. In lieu of publishing the notice of a hearing as provided by this subsection the board may mail a copy of the notice to each address where a landowner in the district resides by first class mail if the cost of mailing is less than publication of the notice. The mailing shall be made during the time the notice would otherwise be required to be published.

Sec. 9. Section 468.127, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The costs of the repair or improvements provided for in section 468.126 shall be paid for out of the funds of the levee or drainage district. If the funds on hand are not sufficient to pay such expenses, the board within two years shall levy an assessment sufficient to pay the outstanding indebtedness and leave the balance which the board determines is desirable as a sinking fund to pay maintenance and repair expenses. Any assessment made under this section on any tract, parcel or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 10. Section 468.136, Code 1993, is amended to read as follows:

468.136 LEVY UNDER ORIGINAL CLASSIFICATION.

If the amount finally charged against a district does not exceed twenty-five percent of the original cost of the improvement in ~~said~~ the district, the board shall proceed to levy ~~said~~ the amount against all lands, highways, and railway rights of way and property within the district, in accordance with the original classification and apportionment. Any assessment made under this section on any tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 11. Section 468.137, Code 1993, is amended to read as follows:

468.137 LEVY UNDER RECLASSIFICATION.

If the amount finally charged against a district exceeds twenty-five percent of the original cost of the improvement, the board may order a reclassification as provided for the original classification of a district and upon the final adoption of the new classification and apportionment shall proceed to levy that amount upon all lands, highways, and railway rights of way and property within the district, in accordance with the new classification and apportionment. An assessment made under this section on a tract, parcel, or lot within the district which is computed at less than ~~two~~ five dollars shall be fixed at the sum of ~~two~~ five dollars.

Sec. 12. Section 468.291, Code 1993, is amended to read as follows:

468.291 MONTHLY ESTIMATE — PAYMENT.

The engineer in charge of the work shall furnish the contractor a monthly ~~estimates of~~ statement estimating the amount of work done on each section and ~~the amount thereof done~~ in each county~~, a~~. A duplicate copy of ~~which~~ the statement shall be filed with the auditor of each ~~of~~

~~the several counties~~ county where the work is done. ~~Upon the filing of such~~ When the auditor files the statement, ~~each~~ the auditor shall draw a warrant for the contractor or give the contractor an order directing the treasurer to deliver to the contractor improvement certificates or drainage bonds, as the case may be, in favor of the contractor for ~~eighty~~ ninety percent of the amount due from the auditor's county. Drainage warrants, bonds, or improvement certificates when so issued shall be in such amounts as the auditor determines, but shall not ~~however~~ be in amounts in excess of one thousand dollars.

Approved April 8, 1994

CHAPTER 1052

LEASES – UNIFORM COMMERCIAL CODE

H.F. 2321

AN ACT relating to leases, by providing for leasing agreements, and amending the uniform commercial code by establishing a new article relating to leases.

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

Section 1. NEW SECTION. 321.51 TERMINAL RENTAL ADJUSTMENT CLAUSE – VEHICLE LEASES THAT ARE NOT SALES OR SECURITY INTERESTS.

An agreement involving the leasing of a motor vehicle or trailer does not create a sale or security interest solely because the agreement provides for an increase or decrease adjustment in the rental price of the motor vehicle or trailer based upon the amount realized upon sale or other disposition of the motor vehicle or trailer following the termination of the lease.

Sec. 2. Section 554.1105, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Applicability of the Article on Leases. Sections 554.13105 and 554.13106.

Sec. 3. Section 554.1201, subsection 37, Code 1993, is amended to read as follows:

37. a. "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 554.2401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts or chattel paper which is subject to Article 9. The special property interest of a buyer of goods on identification of ~~such~~ those goods to a contract for sale under section 554.2401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with Article 9. Unless a ~~lease or~~ consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment ~~is~~ in any event is subject to the provisions on consignment sales (section 554.2326).

b. Whether a transaction creates a lease ~~is intended as~~ or security interest is ~~to be~~ determined by the facts of each case; however, ~~(a) the inclusion of an option to purchase does not of itself make the lease one intended for security, and (b) an agreement that upon compliance with the terms of the lease the lessee shall become or has the option to become the owner of the property for no additional consideration or for a nominal consideration does make the lease one intended for security~~ a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

(1) the original term of the lease is equal to or greater than the remaining economic life of the goods,

(2) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(3) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(4) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

c. A transaction does not create a security interest merely because it provides that

(1) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(2) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(3) the lessee has an option to renew the lease or to become the owner of the goods,

(4) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(5) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

d. For purposes of this subsection:

(1) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(2) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(3) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

Sec. 4. Section 554.9113, Code 1993, is amended to read as follows:

554.9113 SECURITY INTERESTS ARISING UNDER ARTICLE ON SALES OR UNDER ARTICLE ON LEASES.

A security interest arising solely under the Article on Sales (Article 2) or the Article on Leases (Article 13) is subject to the provisions of this Article except that to the extent that and so long as the debtor does not have or does not lawfully obtain possession of the goods

a. no security agreement is necessary to make the security interest enforceable; and

b. no filing is required to perfect the security interest; and

c. the rights of the secured party on default by the debtor are governed (i) by the Article on Sales (Article 2) in the case of a security interest arising solely under such Article or (ii) by the Article on Leases (Article 13) in the case of a security interest arising solely under such Article.

ARTICLE 13
LEASES
PART 1
GENERAL PROVISIONS

Sec. 5. NEW SECTION. 554.13101 SHORT TITLE.
This Article shall be known and may be cited as the Uniform Commercial Code—Leases.

Sec. 6. NEW SECTION. 554.13102 SCOPE.
This Article applies to any transaction, regardless of form, that creates a lease.

Sec. 7. NEW SECTION. 554.13103 DEFINITIONS AND INDEX OF DEFINITIONS.
1. In this Article unless the context otherwise requires:
a. "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.
b. "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.
c. "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.
d. "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.
e. "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed the dollar amount designated in section 537.1301, subsection 13.
f. "Fault" means wrongful act, omission, breach, or default.
g. "Finance lease" means a lease with respect to which:
(1) the lessor does not select, manufacture, or supply the goods;
(2) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and
(3) one of the following occurs:
(a) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;
(b) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;
(c) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; or
(d) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (i) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person, (ii) that the lessee is entitled under this Article to the promises and warranties, including those of any third party, provided to

the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods, and (iii) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies.

h. "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (section 554.13309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

i. "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

j. "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

k. "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

l. "Lease contract" means the total legal obligation that results from the lease agreement as affected by this Article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

m. "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

n. "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

o. "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to the person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

p. "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

q. "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

r. "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

s. "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

t. "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

u. "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

v. "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

w. "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

x. "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

y. "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

z. "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

2. Other definitions applying to this Article and the sections in which they appear are:

"Accessions".	Section 554.13310, subsection 1.
"Construction mortgage".	Section 554.13309, subsection 1, paragraph "d".
"Encumbrance".	Section 554.13309, subsection 1, paragraph "e".
"Fixtures".	Section 554.13309, subsection 1, paragraph "a".
"Fixture filing".	Section 554.13309, subsection 1, paragraph "b".
"Purchase money lease".	Section 554.13309, subsection 1, paragraph "c".

3. The following definitions in other Articles apply to this Article:

"Account".	Section 554.9106.
"Between merchants".	Section 554.2104, subsection 3.
"Buyer".	Section 554.2103, subsection 1, paragraph "a".
"Chattel paper".	Section 554.9105, subsection 1, paragraph "b".
"Consumer goods".	Section 554.9109, subsection 1.
"Document".	Section 554.9105, subsection 1, paragraph "f".
"Entrusting".	Section 554.2403, subsection 3.
"General intangibles".	Section 554.9106.
"Good faith".	Section 554.2103, subsection 1, paragraph "b".
"Instrument".	Section 554.9105, subsection 1, paragraph "i".
"Merchant".	Section 554.2104, subsection 1.
"Mortgage".	Section 554.9105, subsection 1, paragraph "j".
"Pursuant to commitment".	Section 554.9105, subsection 1, paragraph "k".
"Receipt".	Section 554.2103, subsection 1, paragraph "c".
"Sale".	Section 554.2106, subsection 1.
"Sale on approval".	Section 554.2326.
"Sale or return".	Section 554.2326.
"Seller".	Section 554.2103, subsection 1, paragraph "d".

4. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 8. NEW SECTION. 554.13104 LEASES SUBJECT TO OTHER LAW.

1. A lease, although subject to this Article, is also subject to any applicable:

a. certificate of title or registration statute of this state: (including as provided in chapters 321 and 462A);

b. certificate of title statute of another jurisdiction (section 554.13105); or

c. consumer protection statute of this state, or final consumer protection decision of a court of this state existing on the effective date of this Act.

2. In case of conflict between this Article, other than sections 554.13105, 554.13304, subsection 3, and 554.13305, subsection 3, and a statute or decision referred to in subsection 1, the statute or decision controls.

3. Failure to comply with an applicable law has only the effect specified therein.

Sec. 9. NEW SECTION. 554.13105 TERRITORIAL APPLICATION OF ARTICLE TO GOODS COVERED BY CERTIFICATE OF TITLE.

Subject to the provisions of sections 554.13304, subsection 3, and 554.13305, subsection 3, with respect to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction, compliance and the effect of compliance or noncompliance with a certificate of title statute are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until the earlier of (i) surrender of the certificate, or (ii) four months after the goods are removed from that jurisdiction and thereafter until a new certificate of title is issued by another jurisdiction.

Sec. 10. NEW SECTION. 554.13106 LIMITATION ON POWER OF PARTIES TO CONSUMER LEASE TO CHOOSE APPLICABLE LAW AND JUDICIAL FORUM.

1. If the law chosen by the parties to a consumer lease is that of a jurisdiction other than a jurisdiction in which the lessee resides at the time the lease agreement becomes enforceable or within thirty days thereafter or in which the goods are to be used, the choice is not enforceable.

2. If the judicial forum chosen by the parties to a consumer lease is a forum that would not otherwise have jurisdiction over the lessee, the choice is not enforceable.

Sec. 11. NEW SECTION. 554.13107 WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER DEFAULT.

Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a written waiver or renunciation signed and delivered by the aggrieved party.

Sec. 12. NEW SECTION. 554.13108 UNCONSCIONABILITY.

1. If the court as a matter of law finds a lease contract or any clause of a lease contract to have been unconscionable at the time it was made the court may refuse to enforce the lease contract, or it may enforce the remainder of the lease contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

2. With respect to a consumer lease, if the court as a matter of law finds that a lease contract or any clause of a lease contract has been induced by unconscionable conduct or that unconscionable conduct has occurred in the collection of a claim arising from a lease contract, the court may grant appropriate relief.

3. Before making a finding of unconscionability under subsection 1 or 2, the court, on its own motion or that of a party, shall afford the parties a reasonable opportunity to present evidence as to the setting, purpose, and effect of the lease contract or clause thereof, or of the conduct.

4. In an action in which the lessee claims unconscionability with respect to a consumer lease:

a. If the court finds unconscionability under subsection 1 or 2, the court shall award reasonable attorney's fees to the lessee.

b. If the court does not find unconscionability and the lessee claiming unconscionability has brought or maintained an action that the lessee knew to be groundless, the court shall award reasonable attorney's fees to the party against whom the claim is made.

c. In determining attorney's fees, the amount of the recovery on behalf of the claimant under subsections 1 and 2 is not controlling.

Sec. 13. NEW SECTION. 554.13109 OPTION TO ACCELERATE AT WILL.

1. A term providing that one party or the party's successor in interest may accelerate payment or performance or require collateral or additional collateral "at will" or "when the party deems the party insecure" or in words of similar import must be construed to mean that the party has power to do so only if the party in good faith believes that the prospect of payment or performance is impaired.

2. With respect to a consumer lease, the burden of establishing good faith under subsection 1 is on the party who exercised the power; otherwise the burden of establishing lack of good faith is on the party against whom the power has been exercised.

PART 2
FORMATION AND CONSTRUCTION OF LEASE CONTRACT

Sec. 14. NEW SECTION. 554.13201 STATUTE OF FRAUDS.

1. A lease contract is not enforceable by way of action or defense unless:

a. the total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars; or

b. there is a writing, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.

2. Any description of leased goods or of the lease term is sufficient and satisfies subsection 1, paragraph "b", whether or not it is specific, if it reasonably identifies what is described.

3. A writing is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under subsection 1, paragraph "b", beyond the lease term and the quantity of goods shown in the writing.

4. A lease contract that does not satisfy the requirements of subsection 1, but which is valid in other respects, is enforceable:

a. if the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;

b. if the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or

c. with respect to goods that have been received and accepted by the lessee.

5. The lease term under a lease contract referred to in subsection 4 is:

a. if there is a writing signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

b. if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

c. a reasonable lease term.

Sec. 15. NEW SECTION. 554.13202 FINAL WRITTEN EXPRESSION — PAROL OR EXTRINSIC EVIDENCE.

Terms with respect to which the confirmatory memoranda of the parties agree or which are otherwise set forth in a writing intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

1. by course of dealing or usage of trade or by course of performance; and

2. by evidence of consistent additional terms unless the court finds the writing to have been intended also as a complete and exclusive statement of the terms of the agreement.

Sec. 16. NEW SECTION. 554.13203 SEALS INOPERATIVE.

The affixing of a seal to a writing evidencing a lease contract or an offer to enter into a lease contract does not render the writing a sealed instrument and the law with respect to sealed instruments does not apply to the lease contract or offer.

Sec. 17. NEW SECTION. 554.13204 FORMATION IN GENERAL.

1. A lease contract may be made in any manner sufficient to show agreement, including conduct by both parties which recognizes the existence of a lease contract.

2. An agreement sufficient to constitute a lease contract may be found although the moment of its making is undetermined.

3. Although one or more terms are left open, a lease contract does not fail for indefiniteness if the parties have intended to make a lease contract and there is a reasonably certain basis for giving an appropriate remedy.

Sec. 18. NEW SECTION. 554.13205 FIRM OFFERS.

An offer by a merchant to lease goods to or from another person in a signed writing that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror.

Sec. 19. NEW SECTION. 554.13206 OFFER AND ACCEPTANCE IN FORMATION OF LEASE CONTRACT.

1. Unless otherwise unambiguously indicated by the language or circumstances, an offer to make a lease contract must be construed as inviting acceptance in any manner and by any medium reasonable in the circumstances.

2. If the beginning of a requested performance is a reasonable mode of acceptance, an offeror who is not notified of acceptance within a reasonable time may treat the offer as having lapsed before acceptance.

Sec. 20. NEW SECTION. 554.13207 COURSE OF PERFORMANCE OR PRACTICAL CONSTRUCTION.

1. If a lease contract involves repeated occasions for performance by either party with knowledge of the nature of the performance and opportunity for objection to it by the other, any course of performance accepted or acquiesced in without objection is relevant to determine the meaning of the lease agreement.

2. The express terms of a lease agreement and any course of performance, as well as any course of dealing and usage of trade, must be construed whenever reasonable as consistent with each other; but if that construction is unreasonable, express terms control course of performance, course of performance controls both course of dealing and usage of trade, and course of dealing controls usage of trade.

3. Subject to the provisions of section 554.13208 on modification and waiver, course of performance is relevant to show a waiver or modification of any term inconsistent with the course of performance.

Sec. 21. NEW SECTION. 554.13208 MODIFICATION, RESCISSION, AND WAIVER.

1. An agreement modifying a lease contract needs no consideration to be binding.

2. A signed lease agreement that excludes modification or rescission except by a signed writing may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

3. Although an attempt at modification or rescission does not satisfy the requirements of subsection 2, it may operate as a waiver.

4. A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver.

Sec. 22. NEW SECTION. 554.13209 LESSEE UNDER FINANCE LEASE AS BENEFICIARY OF SUPPLY CONTRACT.

1. The benefit of a supplier's promises to the lessor under the supply contract and of all warranties, whether express or implied, including those of any third party provided in connection with or as part of the supply contract, extends to the lessee to the extent of the lessee's leasehold interest under a finance lease related to the supply contract, but is subject to the terms of the warranty and of the supply contract and all defenses or claims arising therefrom.

2. The extension of the benefit of a supplier's promises and of warranties to the lessee under subsection 1 does not: (i) modify the rights and obligations of the parties to the supply contract, whether arising therefrom or otherwise, or (ii) impose any duty or liability under the supply contract on the lessee.

3. Any modification or rescission of the supply contract by the supplier and the lessor is effective between the supplier and the lessee unless, before the modification or rescission, the supplier has received notice that the lessee has entered into a finance lease related to the supply contract. If the modification or rescission is effective between the supplier and the lessee, the lessor is deemed to have assumed, in addition to the obligations of the lessor to the lessee under the lease contract, promises of the supplier to the lessor and warranties that were so modified or rescinded as they existed and were available to the lessee before modification or rescission.

4. In addition to the extension of the benefit of the supplier's promises and of warranties to the lessee under subsection 1, the lessee retains all rights that the lessee may have against the supplier which arise from an agreement between the lessee and the supplier or under other law.

Sec. 23. NEW SECTION. 554.13210 EXPRESS WARRANTIES.

1. Express warranties by the lessor are created as follows:

a. Any affirmation of fact or promise made by the lessor to the lessee which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods will conform to the affirmation or promise.

b. Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods will conform to the description.

c. Any sample or model that is made part of the basis of the bargain creates an express warranty that the whole of the goods will conform to the sample or model.

2. It is not necessary to the creation of an express warranty that the lessor use formal words, such as "warrant" or "guarantee," or that the lessor have a specific intention to make a warranty, but an affirmation merely of the value of the goods or a statement purporting to be merely the lessor's opinion or commendation of the goods does not create a warranty.

Sec. 24. NEW SECTION. 554.13211 WARRANTIES AGAINST INTERFERENCE AND AGAINST INFRINGEMENT – LESSEE'S OBLIGATION AGAINST INFRINGEMENT.

1. There is in a lease contract a warranty that for the lease term no person holds a claim to or interest in the goods that arose from an act or omission of the lessor, other than a claim by way of infringement or the like, which will interfere with the lessee's enjoyment of its leasehold interest.

2. Except in a finance lease there is in a lease contract by a lessor who is a merchant regularly dealing in goods of the kind a warranty that the goods are delivered free of the rightful claim of any person by way of infringement or the like.

3. A lessee who furnishes specifications to a lessor or a supplier shall hold the lessor and the supplier harmless against any claim by way of infringement or the like that arises out of compliance with the specifications.

Sec. 25. NEW SECTION. 554.13212 IMPLIED WARRANTY OF MERCHANTABILITY.

1. Except in a finance lease, a warranty that the goods will be merchantable is implied in a lease contract if the lessor is a merchant with respect to goods of that kind.

2. Goods to be merchantable must be at least such as

a. pass without objection in the trade under the description in the lease agreement;

b. in the case of fungible goods, are of fair average quality within the description;

c. are fit for the ordinary purposes for which goods of that type are used;

d. run, within the variation permitted by the lease agreement, of even kind, quality, and quantity within each unit and among all units involved;

e. are adequately contained, packaged, and labeled as the lease agreement may require; and

f. conform to any promises or affirmations of fact made on the container or label.

3. Other implied warranties may arise from course of dealing or usage of trade.

Sec. 26. NEW SECTION. 554.13213 IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE.

Except in a finance lease, if the lessor at the time the lease contract is made has reason to know of any particular purpose for which the goods are required and that the lessee is relying on the lessor's skill or judgment to select or furnish suitable goods, there is in the lease contract an implied warranty that the goods will be fit for that purpose.

Sec. 27. NEW SECTION. 554.13214 EXCLUSION OR MODIFICATION OF WARRANTIES.

1. Words or conduct relevant to the creation of an express warranty and words or conduct tending to negate or limit a warranty must be construed wherever reasonable as consistent with each other; but, subject to the provisions of section 554.13202 on parol or extrinsic evidence, negation or limitation is inoperative to the extent that the construction is unreasonable.

2. Subject to subsection 3, to exclude or modify the implied warranty of merchantability or any part of it the language must mention "merchantability", be by a writing, and be conspicuous. Subject to subsection 3, to exclude or modify any implied warranty of fitness the exclusion must be by a writing and be conspicuous. Language to exclude all implied warranties of fitness is sufficient if it is in writing, is conspicuous and states, for example, "There is no warranty that the goods will be fit for a particular purpose".

3. Notwithstanding subsection 2, but subject to subsection 4,

a. unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is," or "with all faults," or by other language that in common understanding calls the lessee's attention to the exclusion of warranties and makes plain that there is no implied warranty, if in writing and conspicuous;

b. if the lessee before entering into the lease contract has examined the goods or the sample or model as fully as desired or has refused to examine the goods, there is no implied warranty with regard to defects that an examination ought in the circumstances to have revealed; and

c. an implied warranty may also be excluded or modified by course of dealing, course of performance, or usage of trade.

4. To exclude or modify a warranty against interference or against infringement (section 554.13211) or any part of it, the language must be specific, be by a writing, and be conspicuous, unless the circumstances, including course of performance, course of dealing, or usage of trade, give the lessee reason to know that the goods are being leased subject to a claim or interest of any person.

Sec. 28. NEW SECTION. 554.13215 CUMULATION AND CONFLICT OF WARRANTIES EXPRESS OR IMPLIED.

Warranties, whether express or implied, must be construed as consistent with each other and as cumulative, but if that construction is unreasonable, the intention of the parties determines which warranty is dominant. In ascertaining that intention the following rules apply:

1. Exact or technical specifications displace an inconsistent sample or model or general language of description.

2. A sample from an existing bulk displaces inconsistent general language of description.

3. Express warranties displace inconsistent implied warranties other than an implied warranty of fitness for a particular purpose.

Sec. 29. NEW SECTION. 554.13216 THIRD-PARTY BENEFICIARIES OF EXPRESS AND IMPLIED WARRANTIES.

A warranty to or for the benefit of a lessee under this Article, whether express or implied, extends to any person who may reasonably be expected to use, consume, or be affected by the goods and who is injured by breach of the warranty. The operation of this section may not be excluded, modified, or limited with respect to injury to the person of an individual to whom the warranty extends, but an exclusion, modification, or limitation of the warranty, including any with respect to rights and remedies, effective against the lessee is also effective against the beneficiary designated under this section.

Sec. 30. NEW SECTION. 554.13217 IDENTIFICATION.

Identification of goods as goods to which a lease contract refers may be made at any time and in any manner explicitly agreed to by the parties. In the absence of explicit agreement, identification occurs:

1. when the lease contract is made if the lease contract is for a lease of goods that are existing and identified;

2. when the goods are shipped, marked, or otherwise designated by the lessor as goods to which the lease contract refers, if the lease contract is for a lease of goods that are not existing and identified; or

3. when the young are conceived, if the lease contract is for a lease of unborn young of animals.

Sec. 31. NEW SECTION. 554.13218 INSURANCE AND PROCEEDS.

1. A lessee obtains an insurable interest when existing goods are identified to the lease contract even though the goods identified are nonconforming and the lessee has an option to reject them.

2. If a lessee has an insurable interest only by reason of the lessor's identification of the goods, the lessor, until default or insolvency or notification to the lessee that identification is final, may substitute other goods for those identified.

3. Notwithstanding a lessee's insurable interest under subsections 1 and 2, the lessor retains an insurable interest until an option to buy has been exercised by the lessee and risk of loss has passed to the lessee.

4. Nothing in this section impairs any insurable interest recognized under any other statute or rule of law.

5. The parties by agreement may determine that one or more parties have an obligation to obtain and pay for insurance covering the goods and by agreement may determine the beneficiary of the proceeds of the insurance.

Sec. 32. NEW SECTION. 554.13219 RISK OF LOSS.

1. Except in the case of a finance lease, risk of loss is retained by the lessor and does not pass to the lessee. In the case of a finance lease, risk of loss passes to the lessee.

2. Subject to the provisions of this Article on the effect of default on risk of loss (section 554.13220), if risk of loss is to pass to the lessee and the time of passage is not stated, the following rules apply:

a. If the lease contract requires or authorizes the goods to be shipped by carrier

(1) and it does not require delivery at a particular destination, the risk of loss passes to the lessee when the goods are duly delivered to the carrier; but

(2) if it does require delivery at a particular destination and the goods are there duly tendered while in the possession of the carrier, the risk of loss passes to the lessee when the goods are there duly so tendered as to enable the lessee to take delivery.

b. If the goods are held by a bailee to be delivered without being moved, the risk of loss passes to the lessee on acknowledgment by the bailee of the lessee's right to possession of the goods.

c. In any case not within paragraph "a" or "b", the risk of loss passes to the lessee on the lessee's receipt of the goods if the lessor, or, in the case of a finance lease, the supplier, is a merchant; otherwise the risk passes to the lessee on tender of delivery.

Sec. 33. NEW SECTION. 554.13220 EFFECT OF DEFAULT ON RISK OF LOSS.

1. Where risk of loss is to pass to the lessee and the time of passage is not stated:

a. If a tender or delivery of goods so fails to conform to the lease contract as to give a right of rejection, the risk of their loss remains with the lessor, or, in the case of a finance lease, the supplier, until cure or acceptance.

b. If the lessee rightfully revokes acceptance, the lessee, to the extent of any deficiency in the lessee's effective insurance coverage, may treat the risk of loss as having remained with the lessor from the beginning.

2. Whether or not risk of loss is to pass to the lessee, if the lessee as to conforming goods already identified to a lease contract repudiates or is otherwise in default under the lease contract, the lessor, or, in the case of a finance lease, the supplier, to the extent of any deficiency in the lessor's or supplier's effective insurance coverage may treat the risk of loss as resting on the lessee for a commercially reasonable time.

Sec. 34. NEW SECTION. 554.13221 CASUALTY TO IDENTIFIED GOODS.

If a lease contract requires goods identified when the lease contract is made, and the goods suffer casualty without fault of the lessee, the lessor or the supplier before delivery, or the goods suffer casualty before risk of loss passes to the lessee pursuant to the lease agreement or section 554.13219, then:

1. if the loss is total, the lease contract is avoided; and

2. if the loss is partial or the goods have so deteriorated as to no longer conform to the lease contract, the lessee may nevertheless demand inspection and at the lessee's option either treat the lease contract as avoided or, except in a finance lease that is not a consumer lease, accept the goods with due allowance from the rent payable for the balance of the lease term for the deterioration or the deficiency in quantity but without further right against the lessor.

PART 3
EFFECT OF LEASE CONTRACT

Sec. 35. NEW SECTION. 554.13301 ENFORCEABILITY OF LEASE CONTRACT.

Except as otherwise provided in this Article, a lease contract is effective and enforceable according to its terms between the parties, against purchasers of the goods and against creditors of the parties.

Sec. 36. NEW SECTION. 554.13302 TITLE TO AND POSSESSION OF GOODS.

Except as otherwise provided in this Article, each provision of this Article applies whether the lessor or a third party has title to the goods, and whether the lessor, the lessee, or a third party has possession of the goods, notwithstanding any statute or rule of law that possession or the absence of possession is fraudulent.

Sec. 37. NEW SECTION. 554.13303 ALIENABILITY OF PARTY'S INTEREST UNDER LEASE CONTRACT OR OF LESSOR'S RESIDUAL INTEREST IN GOODS; DELEGATION OF PERFORMANCE; TRANSFER OF RIGHTS.

1. As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to Article 9, Secured Transactions, by reason of section 554.9102, subsection 1, paragraph "b".

2. Except as provided in subsections 3 and 4, a provision in a lease agreement which (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, gives rise to the rights and remedies provided in subsection 5, but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

3. A provision in a lease agreement which (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes such a transfer an event of default, is not enforceable unless, and

then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection 5 unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.

4. A provision in a lease agreement which (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes such a transfer an event of default, is not enforceable, and such a transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection 5.

5. Subject to subsections 3 and 4:

a. if a transfer is made which is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in section 554.13501, subsection 2;

b. if paragraph "a" is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

6. A transfer of "the lease" or of "all my rights under the lease", or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

7. Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

8. In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Sec. 38. NEW SECTION. 554.13304 SUBSEQUENT LEASE OF GOODS BY LESSOR.

1. Subject to section 554.13303, a subsequent lessee from a lessor of goods under an existing lease contract obtains, to the extent of the leasehold interest transferred, the leasehold interest in the goods that the lessor had or had power to transfer, and except as provided in subsection 2 and section 554.13527, subsection 4, takes subject to the existing lease contract. A lessor with voidable title has power to transfer a good leasehold interest to a good faith subsequent lessee for value, but only to the extent set forth in the preceding sentence. If goods have been delivered under a transaction of purchase, the lessor has that power even though:

a. the lessor's transferor was deceived as to the identity of the lessor;

b. the delivery was in exchange for a check which is later dishonored;

c. it was agreed that the transaction was to be a "cash sale"; or

d. the delivery was procured through fraud punishable as larcenous under the criminal law.

2. A subsequent lessee in the ordinary course of business from a lessor who is a merchant dealing in goods of that kind to whom the goods were entrusted by the existing lessee of that lessor before the interest of the subsequent lessee became enforceable against that lessor obtains, to the extent of the leasehold interest transferred, all of that lessor's and the existing lessee's rights to the goods, and takes free of the existing lease contract.

3. A subsequent lessee from the lessor of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this state or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

Sec. 39. NEW SECTION. 554.13305 SALE OR SUBLEASE OF GOODS BY LESSEE.

1. Subject to the provisions of section 554.13303, a buyer or sublessee from the lessee of goods under an existing lease contract obtains, to the extent of the interest transferred, the leasehold interest in the goods that the lessee had or had power to transfer, and except as provided in subsection 2 and section 554.13511, subsection 4, takes subject to the existing lease contract. A lessee with a voidable leasehold interest has power to transfer a good leasehold interest to a good faith buyer for value or a good faith sublessee for value, but only to the extent set forth in the preceding sentence. When goods have been delivered under a transaction of lease the lessee has that power even though:

a. the lessor was deceived as to the identity of the lessee;

b. the delivery was in exchange for a check which is later dishonored; or

c. the delivery was procured through fraud punishable as larcenous under the criminal law.

2. A buyer in the ordinary course of business or a sublessee in the ordinary course of business from a lessee who is a merchant dealing in goods of that kind to whom the goods were entrusted by the lessor obtains, to the extent of the interest transferred, all of the lessor's and lessee's rights to the goods, and takes free of the existing lease contract.

3. A buyer or sublessee from the lessee of goods that are subject to an existing lease contract and are covered by a certificate of title issued under a statute of this state or of another jurisdiction takes no greater rights than those provided both by this section and by the certificate of title statute.

Sec. 40. NEW SECTION. 554.13306 PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW.

If a person in the ordinary course of the person's business furnishes services or materials with respect to goods subject to a lease contract, a lien upon those goods in the possession of that person given by statute or rule of law for those materials or services takes priority over any interest of the lessor or lessee under the lease contract or this Article unless the lien is created by statute and the statute provides otherwise or unless the lien is created by rule of law and the rule of law provides otherwise.

Sec. 41. NEW SECTION. 554.13307 PRIORITY OF LIENS ARISING BY ATTACHMENT OR LEVY ON, SECURITY INTERESTS IN, AND OTHER CLAIMS TO GOODS.

1. Except as otherwise provided in section 554.13306, a creditor of a lessee takes subject to the lease contract.

2. Except as otherwise provided in subsections 3 and 4 and in sections 554.13306 and 554.13308, a creditor of a lessor takes subject to the lease contract unless:

a. the creditor holds a lien that attached to the goods before the lease contract became enforceable,

b. the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or

c. the creditor holds a security interest in the goods which was perfected (section 554.9303) before the lease contract became enforceable.

3. A lessee in the ordinary course of business takes the leasehold interest free of a security interest in the goods created by the lessor even though the security interest is perfected (section 554.9303) and the lessee knows of its existence.

4. A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than forty-five days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five day period.

Sec. 42. NEW SECTION. 554.13308 SPECIAL RIGHTS OF CREDITORS.

1. A creditor of a lessor in possession of goods subject to a lease contract may treat the lease contract as void if as against the creditor retention of possession by the lessor is fraudulent under any statute or rule of law, but retention of possession in good faith and current course of trade by the lessor for a commercially reasonable time after the lease contract becomes enforceable is not fraudulent.

2. Nothing in this Article impairs the rights of creditors of a lessor if the lease contract (i) becomes enforceable, not in current course of trade but in satisfaction of or as security for a preexisting claim for money, security, or the like, and (ii) is made under circumstances which under any statute or rule of law apart from this Article would constitute the transaction a fraudulent transfer or voidable preference.

3. A creditor of a seller may treat a sale or an identification of goods to a contract for sale as void if as against the creditor retention of possession by the seller is fraudulent under any statute or rule of law, but retention of possession of the goods pursuant to a lease contract entered into by the seller as lessee and the buyer as lessor in connection with the sale or identification of the goods is not fraudulent if the buyer bought for value and in good faith.

Sec. 43. NEW SECTION. 554.13309 LESSOR'S AND LESSEE'S RIGHTS WHEN GOODS BECOME FIXTURES.

1. In this section:

a. goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

b. a "fixture filing" is the filing, in the office where a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of section 554.9402, subsection 5;

c. a lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

d. a mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

e. "encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

2. Under this Article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this Article of ordinary building materials incorporated into an improvement on land.

3. This Article does not prevent creation of a lease of fixtures pursuant to real estate law.

4. The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

a. the lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten days thereafter, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

b. the interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

5. The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

a. the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or

b. the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

c. the encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

d. the lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

6. Notwithstanding subsection 4, paragraph "a", but otherwise subject to subsections 4 and 5, the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

7. In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

8. If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this Article, or (ii) if necessary to enforce other rights and remedies of the lessor or lessee under this Article, remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

9. Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the Article on Secured Transactions (Article 9).

Sec. 44. NEW SECTION. 554.13310 LESSOR'S AND LESSEE'S RIGHTS WHEN GOODS BECOME ACCESSIONS.

1. Goods are "accessions" when they are installed in or affixed to other goods.

2. The interest of a lessor or a lessee under a lease contract entered into before the goods became accessions is superior to all interests in the whole except as stated in subsection 4.

3. The interest of a lessor or a lessee under a lease contract entered into at the time or after the goods became accessions is superior to all subsequently acquired interests in the whole except as stated in subsection 4 but is subordinate to interests in the whole existing at the time the lease contract was made unless the holders of such interests in the whole have in writing consented to the lease or disclaimed an interest in the goods as part of the whole.

4. The interest of a lessor or a lessee under a lease contract described in subsection 2 or 3 is subordinate to the interest of

a. a buyer in the ordinary course of business or a lessee in the ordinary course of business of any interest in the whole acquired after the goods became accessions; or

b. a creditor with a security interest in the whole perfected before the lease contract was made to the extent that the creditor makes subsequent advances without knowledge of the lease contract.

5. When under subsections 2 or 3 and 4 a lessor or a lessee of accessions holds an interest that is superior to all interests in the whole, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease contract by the other party but subject to the provisions of the lease contract and this Article, or (ii) if necessary to enforce the lessor's or lessee's other rights and remedies under this Article, remove the goods from the whole, free and clear of all interests in the whole, but the lessor or lessee must reimburse any holder of an interest in the whole who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury but not for any diminution in value of the whole caused by the absence of the goods removed or by any necessity for replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

Sec. 45. NEW SECTION. 554.13311 PRIORITY SUBJECT TO SUBORDINATION.

Nothing in this Article prevents subordination by agreement by any person entitled to priority.

PART 4
PERFORMANCE OF LEASE CONTRACT – REPUDIATED, SUBSTITUTED, AND EXCUSED

Sec. 46. NEW SECTION. 554.13401 INSECURITY – ADEQUATE ASSURANCE OF PERFORMANCE.

1. A lease contract imposes an obligation on each party that the other's expectation of receiving due performance will not be impaired.

2. If reasonable grounds for insecurity arise with respect to the performance of either party, the insecure party may demand in writing adequate assurance of due performance. Until the insecure party receives that assurance, if commercially reasonable the insecure party may suspend any performance for which the insecure party has not already received the agreed return.

3. A repudiation of the lease contract occurs if assurance of due performance adequate under the circumstances of the particular case is not provided to the insecure party within a reasonable time, not to exceed thirty days after receipt of a demand by the other party.

4. Between merchants, the reasonableness of grounds for insecurity and the adequacy of any assurance offered must be determined according to commercial standards.

5. Acceptance of any nonconforming delivery or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance.

Sec. 47. NEW SECTION. 554.13402 ANTICIPATORY REPUDIATION.

If either party repudiates a lease contract with respect to a performance not yet due under the lease contract, the loss of which performance will substantially impair the value of the lease contract to the other, the aggrieved party may:

1. for a commercially reasonable time, await retraction of repudiation and performance by the repudiating party;

2. make demand pursuant to section 554.13401 and await assurance of future performance adequate under the circumstances of the particular case; or

3. resort to any right or remedy upon default under the lease contract or this Article, even though the aggrieved party has notified the repudiating party that the aggrieved party would await the repudiating party's performance and assurance and has urged retraction. In addition, whether or not the aggrieved party is pursuing one of the foregoing remedies, the aggrieved party may suspend performance or, if the aggrieved party is the lessor, proceed in accordance with the provisions of this Article on the lessor's right to identify goods to the lease contract notwithstanding default or to salvage unfinished goods (section 554.13524).

Sec. 48. NEW SECTION. 554.13403 RETRACTION OF ANTICIPATORY REPUDIATION.

1. Until the repudiating party's next performance is due, the repudiating party can retract the repudiation unless, since the repudiation, the aggrieved party has cancelled the lease contract or materially changed the aggrieved party's position or otherwise indicated that the aggrieved party considers the repudiation final.

2. Retraction may be by any method that clearly indicates to the aggrieved party that the repudiating party intends to perform under the lease contract and includes any assurance demanded under section 554.13401.

3. Retraction reinstates a repudiating party's rights under a lease contract with due excuse and allowance to the aggrieved party for any delay occasioned by the repudiation.

Sec. 49. NEW SECTION. 554.13404 SUBSTITUTED PERFORMANCE.

1. If without fault of the lessee, the lessor and the supplier, the agreed berthing, loading, or unloading facilities fail or the agreed type of carrier becomes unavailable or the agreed manner of delivery otherwise becomes commercially impracticable, but a commercially reasonable substitute is available, the substitute performance must be tendered and accepted.

2. If the agreed means or manner of payment fails because of domestic or foreign governmental regulation:

a. the lessor may withhold or stop delivery or cause the supplier to withhold or stop delivery unless the lessee provides a means or manner of payment that is commercially a substantial equivalent; and

b. if delivery has already been taken, payment by the means or in the manner provided by the regulation discharges the lessee's obligation unless the regulation is discriminatory, oppressive, or predatory.

Sec. 50. NEW SECTION. 554.13405 EXCUSED PERFORMANCE.

Subject to section 554.13404 on substituted performance, the following rules apply:

1. Delay in delivery or nondelivery in whole or in part by a lessor or a supplier who complies with subsections 2 and 3 is not a default under the lease contract if performance as agreed has been made impracticable by the occurrence of a contingency the nonoccurrence of which was a basic assumption on which the lease contract was made or by compliance in good faith with any applicable foreign or domestic governmental regulation or order, whether or not the regulation or order later proves to be invalid.

2. If the causes mentioned in subsection 1 affect only part of the lessor's or the supplier's capacity to perform, the lessor or supplier shall allocate production and deliveries among the lessor's or supplier's customers but at the lessor's or supplier's option may include regular customers not then under contract for sale or lease as well as the lessor's or supplier's own requirements for further manufacture. The lessor or supplier may so allocate in any manner that is fair and reasonable.

3. The lessor seasonably shall notify the lessee and in the case of a finance lease the supplier seasonably shall notify the lessor and the lessee, if known, that there will be delay or nondelivery and, if allocation is required under subsection 2, of the estimated quota thus made available for the lessee.

Sec. 51. NEW SECTION. 554.13406 PROCEDURE ON EXCUSED PERFORMANCE.

1. If the lessee receives notification of a material or indefinite delay or an allocation justified under section 554.13405, the lessee may by written notification to the lessor as to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (section 554.13510):

a. terminate the lease contract (section 554.13505, subsection 2); or

b. except in a finance lease that is not a consumer lease, modify the lease contract by accepting the available quota in substitution, with due allowance from the rent payable for the balance of the lease term for the deficiency but without further right against the lessor.

2. If, after receipt of a notification from the lessor under section 554.13405, the lessee fails so to modify the lease agreement within a reasonable time not exceeding thirty days, the lease contract lapses with respect to any deliveries affected.

Sec. 52. NEW SECTION. 554.13407 IRREVOCABLE PROMISES — FINANCE LEASES.

1. In the case of a finance lease that is not a consumer lease the lessee's promises under the lease contract become irrevocable and independent upon the lessee's acceptance of the goods.

2. A promise that has become irrevocable and independent under subsection 1:

a. is effective and enforceable between the parties, and by or against third parties including assignees of the parties, and

b. is not subject to cancellation, termination, modification, repudiation, excuse, or substitution without the consent of the party to whom the promise runs.

3. This section does not affect the validity under any other law of a covenant in any lease contract making the lessee's promises irrevocable and independent upon the lessee's acceptance of the goods.

PART 5
DEFAULT
A. IN GENERAL

Sec. 53. NEW SECTION. 554.13501 DEFAULT — PROCEDURE.

1. Whether the lessor or the lessee is in default under a lease contract is determined by the lease agreement and this Article.

2. If the lessor or the lessee is in default under the lease contract, the party seeking enforcement has rights and remedies as provided in this Article and, except as limited by this Article, as provided in the lease agreement.

3. If the lessor or the lessee is in default under the lease contract, the party seeking enforcement may reduce the party's claim to judgment, or otherwise enforce the lease contract by self-help or any available judicial procedure or nonjudicial procedure, including administrative proceeding, arbitration, or the like, in accordance with this Article.

4. Except as otherwise provided in section 554.1106, subsection 1, of this Article or the lease agreement, the rights and remedies referred to in subsections 2 and 3 are cumulative.

5. If the lease agreement covers both real property and goods, the party seeking enforcement may proceed under this Part as to the goods, or under other applicable law as to both the real property and the goods in accordance with that party's rights and remedies in respect of the real property, in which case this Part does not apply.

Sec. 54. NEW SECTION. 554.13502 NOTICE AFTER DEFAULT.

Except as otherwise provided in this Article or the lease agreement, the lessor or lessee in default under the lease contract is not entitled to notice of default or notice of enforcement from the other party to the lease agreement.

Sec. 55. NEW SECTION. 554.13503 MODIFICATION OR IMPAIRMENT OF RIGHTS AND REMEDIES.

1. Except as otherwise provided in this Article, the lease agreement may include rights and remedies for default in addition to or in substitution for those provided in this Article and may limit or alter the measure of damages recoverable under this Article.

2. Resort to a remedy provided under this Article or in the lease agreement is optional unless the remedy is expressly agreed to be exclusive. If circumstances cause an exclusive or limited remedy to fail of its essential purpose, or provision for an exclusive remedy is unconscionable, remedy may be had as provided in this Article.

3. Consequential damages may be liquidated under section 554.13504, or may otherwise be limited, altered, or excluded unless the limitation, alteration, or exclusion is unconscionable. Limitation, alteration, or exclusion of consequential damages for injury to the person in the case of consumer goods is prima facie unconscionable but limitation, alteration, or exclusion of damages where the loss is commercial is not prima facie unconscionable.

4. Rights and remedies on default by the lessor or the lessee with respect to any obligation or promise collateral or ancillary to the lease contract are not impaired by this Article.

Sec. 56. NEW SECTION. 554.13504 LIQUIDATION OF DAMAGES.

1. Damages payable by either party for default, or any other act or omission, including indemnity for loss or diminution of anticipated tax benefits or loss or damage to lessor's residual interest, may be liquidated in the lease agreement but only at an amount or by a formula that is reasonable in light of the then anticipated harm caused by the default or other act or omission.

2. If the lease agreement provides for liquidation of damages, and such provision does not comply with subsection 1, or such provision is an exclusive or limited remedy that circumstances cause to fail of its essential purpose, remedy may be had as provided in this Article.

3. If the lessor justifiably withholds or stops delivery of goods because of the lessee's default or insolvency (section 554.13525 or 554.13526), the lessee is entitled to restitution of any amount by which the sum of the lessee's payments exceeds:

a. the amount to which the lessor is entitled by virtue of terms liquidating the lessor's damages in accordance with subsection 1; or

b. in the absence of those terms, twenty percent of the then present value of the total rent the lessee was obligated to pay for the balance of the lease term, or, in the case of a consumer lease, the lesser of such amount or five hundred dollars.

4. A lessee's right to restitution under subsection 3 is subject to offset to the extent the lessor establishes:

a. a right to recover damages under the provisions of this Article other than subsection 1; and

b. the amount or value of any benefits received by the lessee directly or indirectly by reason of the lease contract.

Sec. 57. NEW SECTION. 554.13505 CANCELLATION AND TERMINATION AND EFFECT OF CANCELLATION, TERMINATION, RESCISSION, OR FRAUD ON RIGHTS AND REMEDIES.

1. On cancellation of the lease contract, all obligations that are still executory on both sides are discharged, but any right based on prior default or performance survives, and the cancelling party also retains any remedy for default of the whole lease contract or any unperformed balance.

2. On termination of the lease contract, all obligations that are still executory on both sides are discharged but any right based on prior default or performance survives.

3. Unless the contrary intention clearly appears, expressions of "cancellation," "rescission," or the like of the lease contract may not be construed as a renunciation or discharge of any claim in damages for an antecedent default.

4. Rights and remedies for material misrepresentation or fraud include all rights and remedies available under this Article for default.

5. Neither rescission nor a claim for rescission of the lease contract nor rejection or return of the goods may bar or be deemed inconsistent with a claim for damages or other right or remedy.

Sec. 58. NEW SECTION. 554.13506 STATUTE OF LIMITATIONS.

1. An action for default under a lease contract, including breach of warranty or indemnity, must be commenced within four years after the cause of action accrued. By the original lease contract the parties may reduce the period of limitation to not less than one year.

2. A cause of action for default accrues when the act or omission on which the default or breach of warranty is based is or should have been discovered by the aggrieved party, or when the default occurs, whichever is later. A cause of action for indemnity accrues when the act or omission on which the claim for indemnity is based is or should have been discovered by the indemnified party, whichever is later.

3. If an action commenced within the time limited by subsection 1 is so terminated as to leave available a remedy by another action for the same default or breach of warranty or indemnity, the other action may be commenced after the expiration of the time limited and within

six months after the termination of the first action unless the termination resulted from voluntary discontinuance or from dismissal for failure or neglect to prosecute.

4. This section does not alter the law on tolling of the statute of limitations nor does it apply to causes of action that have accrued before this Article becomes effective.

Sec. 59. NEW SECTION. 554.13507 PROOF OF MARKET RENT — TIME AND PLACE.

1. Damages based on market rent (section 554.13519 or 554.13528) are determined according to the rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times specified in sections 554.13519 and 554.13528.

2. If evidence of rent for the use of the goods concerned for a lease term identical to the remaining lease term of the original lease agreement and prevailing at the times or places described in this Article is not readily available, the rent prevailing within any reasonable time before or after the time described or at any other place or for a different lease term which in commercial judgment or under usage of trade would serve as a reasonable substitute for the one described may be used, making any proper allowance for the difference, including the cost of transporting the goods to or from the other place.

3. Evidence of a relevant rent prevailing at a time or place or for a lease term other than the one described in this Article offered by one party is not admissible unless and until the party has given the other party notice the court finds sufficient to prevent unfair surprise.

4. If the prevailing rent or value of any goods regularly leased in any established market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of that market are admissible in evidence. The circumstances of the preparation of the report may be shown to affect its weight but not its admissibility.

B. DEFAULT BY LESSOR

Sec. 60. NEW SECTION. 554.13508 LESSEE'S REMEDIES.

1. If a lessor fails to deliver the goods in conformity to the lease contract (section 554.13509) or repudiates the lease contract (section 554.13402), or a lessee rightfully rejects the goods (section 554.13509) or justifiably revokes acceptance of the goods (section 554.13517), then with respect to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (section 554.13510), the lessor is in default under the lease contract and the lessee may:

a. cancel the lease contract (section 554.13505, subsection 1);

b. recover so much of the rent and security as has been paid and is just under the circumstances;

c. cover and recover damages as to all goods affected whether or not they have been identified to the lease contract (sections 554.13518 and 554.13520), or recover damages for nondelivery (sections 554.13519 and 554.13520);

d. exercise any other rights or pursue any other remedies provided in the lease contract.

2. If a lessor fails to deliver the goods in conformity to the lease contract or repudiates the lease contract, the lessee may also:

a. if the goods have been identified, recover them (section 554.13522); or

b. in a proper case, obtain specific performance or replevy the goods (section 554.13521).

3. If a lessor is otherwise in default under a lease contract, the lessee may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease, and in section 554.13519, subsection 3.

4. If a lessor has breached a warranty, whether express or implied, the lessee may recover damages (section 554.13519, subsection 4).

5. On rightful rejection or justifiable revocation of acceptance, a lessee has a security interest in goods in the lessee's possession or control for any rent and security that has been paid and any expenses reasonably incurred in their inspection, receipt, transportation, and care and custody and may hold those goods and dispose of them in good faith and in a commercially reasonable manner, subject to section 554.13527, subsection 5.

6. Subject to the provisions of section 554.13407, a lessee, on notifying the lessor of the lessee's intention to do so, may deduct all or any part of the damages resulting from any default under the lease contract from any part of the rent still due under the same lease contract.

Sec. 61. NEW SECTION. 554.13509 LESSEE'S RIGHTS ON IMPROPER DELIVERY — RIGHTFUL REJECTION.

1. Subject to the provisions of section 554.13510 on default in installment lease contracts, if the goods or the tender or delivery fail in any respect to conform to the lease contract, the lessee may reject or accept the goods or accept any commercial unit or units and reject the rest of the goods.

2. Rejection of goods is ineffective unless it is within a reasonable time after tender or delivery of the goods and the lessee seasonably notifies the lessor.

Sec. 62. NEW SECTION. 554.13510 INSTALLMENT LEASE CONTRACTS — REJECTION AND DEFAULT.

1. Under an installment lease contract a lessee may reject any delivery that is nonconforming if the nonconformity substantially impairs the value of that delivery and cannot be cured or the nonconformity is a defect in the required documents; but if the nonconformity does not fall within subsection 2 and the lessor or the supplier gives adequate assurance of its cure, the lessee must accept that delivery.

2. Whenever nonconformity or default with respect to one or more deliveries substantially impairs the value of the installment lease contract as a whole there is a default with respect to the whole. But, the aggrieved party reinstates the installment lease contract as a whole if the aggrieved party accepts a nonconforming delivery without seasonably notifying of cancellation or brings an action with respect only to past deliveries or demands performance as to future deliveries.

Sec. 63. NEW SECTION. 554.13511 MERCHANT LESSEE'S DUTIES AS TO RIGHTFULLY REJECTED GOODS.

1. Subject to any security interest of a lessee (section 554.13508, subsection 5), if a lessor or a supplier has no agent or place of business at the market of rejection, a merchant lessee, after rejection of goods in the merchant lessee's possession or control, shall follow any reasonable instructions received from the lessor or the supplier with respect to the goods. In the absence of those instructions, a merchant lessee shall make reasonable efforts to sell, lease, or otherwise dispose of the goods for the lessor's or supplier's account if they threaten to decline in value speedily. Instructions are not reasonable if on demand indemnity for expenses is not forthcoming.

2. If a merchant lessee (subsection 1) or any other lessee (section 554.13512) disposes of goods, the lessee is entitled to reimbursement either from the lessor or the supplier or out of the proceeds for reasonable expenses of caring for and disposing of the goods and, if the expenses include no disposition commission, to such commission as is usual in the trade, or if there is none, to a reasonable sum not exceeding ten percent of the gross proceeds.

3. In complying with this section or section 554.13512, the lessee is held only to good faith. Good faith conduct hereunder is neither acceptance or conversion nor the basis of an action for damages.

4. A purchaser who purchases in good faith from a lessee pursuant to this section or section 554.13512 takes the goods free of any rights of the lessor and the supplier even though the lessee fails to comply with one or more of the requirements of this Article.

Sec. 64. NEW SECTION. 554.13512 LESSEE'S DUTIES AS TO RIGHTFULLY REJECTED GOODS.

1. Except as otherwise provided with respect to goods that threaten to decline in value speedily (section 554.13511) and subject to any security interest of a lessee (section 554.13508, subsection 5):

a. the lessee, after rejection of goods in the lessee's possession, shall hold them with reasonable care at the lessor's or the supplier's disposition for a reasonable time after the lessee's seasonable notification of rejection;

b. if the lessor or the supplier gives no instructions within a reasonable time after notification of rejection, the lessee may store the rejected goods for the lessor's or the supplier's account or ship them to the lessor or the supplier or dispose of them for the lessor's or the supplier's account with reimbursement in the manner provided in section 554.13511; but

c. the lessee has no further obligations with regard to goods rightfully rejected.

2. Action by the lessee pursuant to subsection 1 is not acceptance or conversion.

Sec. 65. NEW SECTION. 554.13513 CURE BY LESSOR OF IMPROPER TENDER OR DELIVERY — REPLACEMENT.

1. If any tender or delivery by the lessor or the supplier is rejected because nonconforming and the time for performance has not yet expired, the lessor or the supplier may seasonably notify the lessee of the lessor's or the supplier's intention to cure and may then make a conforming delivery within the time provided in the lease contract.

2. If the lessee rejects a nonconforming tender that the lessor or the supplier had reasonable grounds to believe would be acceptable with or without money allowance, the lessor or the supplier may have a further reasonable time to substitute a conforming tender if the lesser* or supplier seasonably notifies the lessee.

Sec. 66. NEW SECTION. 554.13514 WAIVER OF LESSEE'S OBJECTIONS.

1. In rejecting goods, a lessee's failure to state a particular defect that is ascertainable by reasonable inspection precludes the lessee from relying on the defect to justify rejection or to establish default:

a. if, stated seasonably, the lessor or the supplier could have cured it (section 554.13513); or

b. between merchants if the lessor or the supplier after rejection has made a request in writing for a full and final written statement of all defects on which the lessee proposes to rely.

2. A lessee's failure to reserve rights when paying rent or other consideration against documents precludes recovery of the payment for defects apparent on the face of the documents.

Sec. 67. NEW SECTION. 554.13515 ACCEPTANCE OF GOODS.

1. Acceptance of goods occurs after the lessee has had a reasonable opportunity to inspect the goods and

a. the lessee signifies or acts with respect to the goods in a manner that signifies to the lessor or the supplier that the goods are conforming or that the lessee will take or retain them in spite of their nonconformity; or

b. the lessee fails to make an effective rejection of the goods (section 554.13509, subsection 2).

2. Acceptance of a part of any commercial unit is acceptance of that entire unit.

Sec. 68. NEW SECTION. 554.13516 EFFECT OF ACCEPTANCE OF GOODS — NOTICE OF DEFAULT — BURDEN OF ESTABLISHING DEFAULT AFTER ACCEPTANCE — NOTICE OF CLAIM OR LITIGATION TO PERSON ANSWERABLE OVER.

1. A lessee must pay rent for any goods accepted in accordance with the lease contract, with due allowance for goods rightfully rejected or not delivered.

2. A lessee's acceptance of goods precludes rejection of the goods accepted. In the case of a finance lease, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it. In any other case, if made with knowledge of a nonconformity, acceptance cannot be revoked because of it unless the acceptance was on the reasonable assumption that the nonconformity would be seasonably cured. Acceptance does not of itself impair any other remedy provided by this Article or the lease agreement for nonconformity.

3. If a tender has been accepted:

a. within a reasonable time after the lessee discovers or should have discovered any default, the lessee shall notify the lessor and the supplier, if any, or be barred from any remedy against the party not notified;

*"lessor" probably intended

b. except in the case of a consumer lease, within a reasonable time after the lessee receives notice of litigation for infringement or the like (section 554.13211) the lessee shall notify the lessor or be barred from any remedy over for liability established by the litigation; and

c. the burden is on the lessee to establish any default.

4. If a lessee is sued for breach of a warranty or other obligation for which a lessor or a supplier is answerable over the following apply:

a. The lessee may give the lessor or the supplier, or both, written notice of the litigation. If the notice states that the person notified may come in and defend and that if the person notified does not do so that person will be bound in any action against that person by the lessee by any determination of fact common to the two litigations, then unless the person notified after seasonable receipt of the notice does come in and defend that person is so bound.

b. The lessor or the supplier may demand in writing that the lessee turn over control of the litigation including settlement if the claim is one for infringement or the like (section 554.13211) or else be barred from any remedy over. If the demand states that the lessor or the supplier agrees to bear all expense and to satisfy any adverse judgment, then unless the lessee after seasonable receipt of the demand does turn over control the lessee is so barred.

5. Subsections 3 and 4 apply to any obligation of a lessee to hold the lessor or the supplier harmless against infringement or the like (section 554.13211).

Sec. 69. NEW SECTION. 554.13517 REVOCATION OF ACCEPTANCE OF GOODS.

1. A lessee may revoke acceptance of a lot or commercial unit whose nonconformity substantially impairs its value to the lessee if the lessee has accepted it:

a. except in the case of a finance lease, on the reasonable assumption that its nonconformity would be cured and it has not been seasonably cured; or

b. without discovery of the nonconformity if the lessee's acceptance was reasonably induced either by the lessor's assurances or, except in the case of a finance lease, by the difficulty of discovery before acceptance.

2. Except in the case of a finance lease that is not a consumer lease, a lessee may revoke acceptance of a lot or commercial unit if the lessor defaults under the lease contract and the default substantially impairs the value of that lot or commercial unit to the lessee.

3. If the lease agreement so provides, the lessee may revoke acceptance of a lot or commercial unit because of other defaults by the lessor.

4. Revocation of acceptance must occur within a reasonable time after the lessee discovers or should have discovered the ground for it and before any substantial change in condition of the goods which is not caused by the nonconformity. Revocation is not effective until the lessee notifies the lessor.

5. A lessee who so revokes has the same rights and duties with regard to the goods involved as if the lessee had rejected them.

Sec. 70. NEW SECTION. 554.13518 COVER – SUBSTITUTE GOODS.

1. After a default by a lessor under the lease contract of the type described in section 554.13508, subsection 1, or, if agreed, after other default by the lessor, the lessee may cover by making any purchase or lease of or contract to purchase or lease goods in substitution for those due from the lessor.

2. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.1102, subsection 3, and 554.13503), if a lessee's cover is by a lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessee may recover from the lessor as damages (i) the present value, as of the date of the commencement of the term of the new lease agreement, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement minus the present value as of the same date of the total rent for the then remaining lease term of the original lease agreement, and (ii) any incidental or consequential damages, less expenses saved in consequence of the lessor's default.

3. If a lessee's cover is by lease agreement that for any reason does not qualify for treatment under subsection 2, or is by purchase or otherwise, the lessee may recover from the lessor as if the lessee had elected not to cover and section 554.13519 governs.

Sec. 71. NEW SECTION. 554.13519 LESSEE'S DAMAGES FOR NONDELIVERY, REPUDIATION, DEFAULT, AND BREACH OF WARRANTY IN REGARD TO ACCEPTED GOODS.

1. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.1102, subsection 3, and 554.13503), if a lessee elects not to cover or a lessee elects to cover and the cover is by lease agreement that for any reason does not qualify for treatment under section 554.13518, subsection 2, or is by purchase or otherwise, the measure of damages for nondelivery or repudiation by the lessor or for rejection or revocation of acceptance by the lessee is the present value, as of the date of the default, of the then market rent minus the present value as of the same date of the original rent, computed for the remaining lease term of the original lease agreement, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

2. Market rent is to be determined as of the place for tender or, in cases of rejection after arrival or revocation of acceptance, as of the place of arrival.

3. Except as otherwise agreed, if the lessee has accepted goods and given notification (section 554.13516, subsection 3), the measure of damages for nonconforming tender or delivery or other default by a lessor is the loss resulting in the ordinary course of events from the lessor's default as determined in any manner that is reasonable together with incidental and consequential damages, less expenses saved in consequence of the lessor's default.

4. Except as otherwise agreed, the measure of damages for breach of warranty is the present value at the time and place of acceptance of the difference between the value of the use of the goods accepted and the value if they had been as warranted for the lease term, unless special circumstances show proximate damages of a different amount, together with incidental and consequential damages, less expenses saved in consequence of the lessor's default or breach of warranty.

Sec. 72. NEW SECTION. 554.13520 LESSEE'S INCIDENTAL AND CONSEQUENTIAL DAMAGES.

1. Incidental damages resulting from a lessor's default include expenses reasonably incurred in inspection, receipt, transportation, and care and custody of goods rightfully rejected or goods the acceptance of which is justifiably revoked, any commercially reasonable charges, expenses or commissions in connection with effecting cover, and any other reasonable expense incident to the default.

2. Consequential damages resulting from a lessor's default include:

a. any loss resulting from general or particular requirements and needs of which the lessor at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

b. injury to person or property proximately resulting from any breach of warranty.

Sec. 73. NEW SECTION. 554.13521 LESSEE'S RIGHT TO SPECIFIC PERFORMANCE OR REPLEVIN.

1. Specific performance may be decreed if the goods are unique or in other proper circumstances.

2. A decree for specific performance may include any terms and conditions as to payment of the rent, damages, or other relief that the court deems just.

3. A lessee has a right of replevin, detinue, sequestration, claim and delivery, or the like for goods identified to the lease contract if after reasonable effort the lessee is unable to effect cover for those goods or the circumstances reasonably indicate that the effort will be unavailing.

Sec. 74. NEW SECTION. 554.13522 LESSEE'S RIGHT TO GOODS ON LESSOR'S INSOLVENCY.

1. Subject to subsection 2 and even though the goods have not been shipped, a lessee who has paid a part or all of the rent and security for goods identified to a lease contract (section 554.13217) on making and keeping good a tender of any unpaid portion of the rent and security due under the lease contract may recover the goods identified from the lessor if the lessor becomes insolvent within ten days after receipt of the first installment of rent and security.

2. A lessee acquires the right to recover goods identified to a lease contract only if they conform to the lease contract.

C. DEFAULT BY LESSEE

Sec. 75. NEW SECTION. 554.13523 LESSOR'S REMEDIES.

1. If a lessee wrongfully rejects or revokes acceptance of goods or fails to make a payment when due or repudiates with respect to a part or the whole, then, with respect to any goods involved, and with respect to all of the goods if under an installment lease contract the value of the whole lease contract is substantially impaired (section 554.13510), the lessee is in default under the lease contract and the lessor may:

a. cancel the lease contract (section 554.13505, subsection 1);

b. proceed respecting goods not identified to the lease contract (section 554.13524);

c. withhold delivery of the goods and take possession of goods previously delivered (section 554.13525);

d. stop delivery of the goods by any bailee (section 554.13526);

e. dispose of the goods and recover damages (section 554.13527), or retain the goods and recover damages (section 554.13528), or in a proper case recover rent (section 554.13529);

f. exercise any other rights or pursue any other remedies provided in the lease contract.

2. If a lessor does not fully exercise a right or obtain a remedy to which the lessor is entitled under subsection 1, the lessor may recover the loss resulting in the ordinary course of events from the lessee's default as determined in any reasonable manner, together with incidental damages, less expenses saved in consequence of the lessee's default.

3. If a lessee is otherwise in default under a lease contract, the lessor may exercise the rights and pursue the remedies provided in the lease contract, which may include a right to cancel the lease. In addition, unless otherwise provided in the lease contract:

a. if the default substantially impairs the value of the lease contract to the lessor, the lessor may exercise the rights and pursue the remedies provided in subsection 1 or 2; or

b. if the default does not substantially impair the value of the lease contract to the lessor, the lessor may recover as provided in subsection 2.

Sec. 76. NEW SECTION. 554.13524 LESSOR'S RIGHT TO IDENTIFY GOODS TO LEASE CONTRACT.

1. After default by the lessee under the lease contract of the type described in section 554.13523, subsection 1 or section 554.13523, subsection 3, paragraph "a" or, if agreed, after other default by the lessee, the lessor may:

a. identify to the lease contract conforming goods not already identified if at the time the lessor learned of the default they were in the lessor's or the supplier's possession or control; and

b. dispose of goods (section 554.13527, subsection 1) that demonstrably have been intended for the particular lease contract even though those goods are unfinished.

2. If the goods are unfinished, in the exercise of reasonable commercial judgment for the purposes of avoiding loss and of effective realization, an aggrieved lessor or the supplier may either complete manufacture and wholly identify the goods to the lease contract or cease manufacture and lease, sell, or otherwise dispose of the goods for scrap or salvage value or proceed in any other reasonable manner.

Sec. 77. NEW SECTION. 554.13525 LESSOR'S RIGHT TO POSSESSION OF GOODS.

1. If a lessor discovers the lessee to be insolvent, the lessor may refuse to deliver the goods.

2. After a default by the lessee under the lease contract of the type described in section 554.13523, subsection 1 or section 554.13523, subsection 3, paragraph "a" or, if agreed, after other default by the lessee, the lessor has the right to take possession of the goods. If the lease contract so provides, the lessor may require the lessee to assemble the goods and make them available to the lessor at a place to be designated by the lessor which is reasonably convenient to both parties. Without removal, the lessor may render unusable any goods employed in trade or business, and may dispose of goods on the lessee's premises (section 554.13527).

3. The lessor may proceed under subsection 2 without judicial process if it can be done without breach of the peace or the lessor may proceed by action.

Sec. 78. NEW SECTION. 554.13526 LESSOR'S STOPPAGE OF DELIVERY IN TRANSIT OR OTHERWISE.

1. A lessor may stop delivery of goods in the possession of a carrier or other bailee if the lessor discovers the lessee to be insolvent and may stop delivery of carload, truckload, planeload, or larger shipments of express or freight if the lessee repudiates or fails to make a payment due before delivery, whether for rent, security or otherwise under the lease contract, or for any other reason the lessor has a right to withhold or take possession of the goods.

2. In pursuing its remedies under subsection 1, the lessor may stop delivery until

a. receipt of the goods by the lessee;

b. acknowledgment to the lessee by any bailee of the goods, except a carrier, that the bailee holds the goods for the lessee; or

c. such an acknowledgment to the lessee by a carrier via reshipment or as warehouseman.

3. a. To stop delivery, a lessor shall so notify as to enable the bailee by reasonable diligence to prevent delivery of the goods.

b. After notification, the bailee shall hold and deliver the goods according to the directions of the lessor, but the lessor is liable to the bailee for any ensuing charges or damages.

c. A carrier who has issued a nonnegotiable bill of lading is not obliged to obey a notification to stop received from a person other than the consignor.

Sec. 79. NEW SECTION. 554.13527 LESSOR'S RIGHTS TO DISPOSE OF GOODS.

1. After a default by a lessee under the lease contract of the type described in section 554.13523, subsection 1 or section 554.13523, subsection 3, paragraph "a" or after the lessor refuses to deliver or takes possession of goods (section 554.13525 or 554.13526), or, if agreed, after other default by a lessee, the lessor may dispose of the goods concerned or the undelivered balance thereof by lease, sale, or otherwise.

2. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.1102, subsection 3, and 554.13503), if the disposition is by lease agreement substantially similar to the original lease agreement and the new lease agreement is made in good faith and in a commercially reasonable manner, the lessor may recover from the lessee as damages (i) accrued and unpaid rent as of the date of the commencement of the term of the new lease agreement, (ii) the present value, as of the same date, of the total rent for the remaining lease term of the original lease agreement minus the present value, as of the same date, of the rent under the new lease agreement applicable to that period of the new lease term which is comparable to the then remaining term of the original lease agreement, and (iii) any incidental damages allowed under section 554.13530, less expenses saved in consequence of the lessee's default.

3. If the lessor's disposition is by lease agreement that for any reason does not qualify for treatment under subsection 2, or is by sale or otherwise, the lessor may recover from the lessee as if the lessor had elected not to dispose of the goods and section 554.13528 governs.

4. A subsequent buyer or lessee who buys or leases from the lessor in good faith for value as a result of a disposition under this section takes the goods free of the original lease contract and any rights of the original lessee even though the lessor fails to comply with one or more of the requirements of this Article.

5. The lessor is not accountable to the lessee for any profit made on any disposition. A lessee who has rightfully rejected or justifiably revoked acceptance shall account to the lessor for any excess over the amount of the lessee's security interest (section 554.13508, subsection 5).

Sec. 80. NEW SECTION. 554.13528 LESSOR'S DAMAGES FOR NONACCEPTANCE, FAILURE TO PAY, REPUDIATION, OR OTHER DEFAULT.

1. Except as otherwise provided with respect to damages liquidated in the lease agreement (section 554.13504) or otherwise determined pursuant to agreement of the parties (sections 554.1102, subsection 3, and 554.13503), if a lessor elects to retain the goods or a lessor elects to dispose of the goods and the disposition is by lease agreement that for any reason does not qualify for treatment under section 554.13527, subsection 2, or is by sale or otherwise, the lessor may recover from the lessee as damages for a default of the type described in section 554.13523, subsection 1, or section 554.13523, subsection 3, paragraph "a", or, if agreed, for other default of the lessee, (i) accrued and unpaid rent as of the date of default if the lessee has never taken possession of the goods, or, if the lessee has taken possession of the goods, as of the date the lessor repossesses the goods or an earlier date on which the lessee makes a tender of the goods to the lessor, (ii) the present value as of the date determined under clause (i) of the total rent for the then remaining lease term of the original lease agreement minus the present value as of the same date of the market rent at the place where the goods are located computed for the same lease term, and (iii) any incidental damages allowed under section 554.13530, less expenses saved in consequence of the lessee's default.

2. If the measure of damages provided in subsection 1 is inadequate to put a lessor in as good a position as performance would have, the measure of damages is the present value of the profit, including reasonable overhead, the lessor would have made from full performance by the lessee, together with any incidental damages allowed under section 554.13530, due allowance for costs reasonably incurred and due credit for payments or proceeds of disposition.

Sec. 81. NEW SECTION. 554.13529 LESSOR'S ACTION FOR THE RENT.

1. After default by the lessee under the lease contract of the type described in section 554.13523, subsection 1 or section 554.13523, subsection 3, paragraph "a" or, if agreed, after other default by the lessee, if the lessor complies with subsection 2, the lessor may recover from the lessee as damages:

a. for goods accepted by the lessee and not repossessed by or tendered to the lessor, and for conforming goods lost or damaged within a commercially reasonable time after risk of loss passes to the lessee (section 554.13219), (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under section 554.13530, less expenses saved in consequence of the lessee's default; and

b. for goods identified to the lease contract if the lessor is unable after reasonable effort to dispose of them at a reasonable price or the circumstances reasonably indicate that effort will be unavailing, (i) accrued and unpaid rent as of the date of entry of judgment in favor of the lessor, (ii) the present value as of the same date of the rent for the then remaining lease term of the lease agreement, and (iii) any incidental damages allowed under section 554.13530, less expenses saved in consequence of the lessee's default.

2. Except as provided in subsection 3, the lessor shall hold for the lessee for the remaining lease term of the lease agreement any goods that have been identified to the lease contract and are in the lessor's control.

3. The lessor may dispose of the goods at any time before collection of the judgment for damages obtained pursuant to subsection 1. If the disposition is before the end of the remaining lease term of the lease agreement, the lessor's recovery against the lessee for damages is governed by section 554.13527 or 554.13528, and the lessor will cause an appropriate credit to be provided against a judgment for damages to the extent that the amount of the judgment exceeds the recovery available pursuant to section 554.13527 or 554.13528.

4. Payment of the judgment for damages obtained pursuant to subsection 1 entitles the lessee to the use and possession of the goods not then disposed of for the remaining lease term of and in accordance with the lease agreement.

5. After default by the lessee under the lease contract of the type described in section 554.13523, subsection 1 or section 554.13523, subsection 3, paragraph "a" or, if agreed, after other default by the lessee, a lessor who is held not entitled to rent under this section must nevertheless be awarded damages for nonacceptance under section 554.13527 or section 554.13528.

Sec. 82. NEW SECTION. 554.13530 LESSOR'S INCIDENTAL DAMAGES.

Incidental damages to an aggrieved lessor include any commercially reasonable charges, expenses, or commissions incurred in stopping delivery, in the transportation, care and custody of goods after the lessee's default, in connection with return or disposition of the goods, or otherwise resulting from the default.

Sec. 83. NEW SECTION. 554.13531 STANDING TO SUE THIRD PARTIES FOR INJURY TO GOODS.

1. If a third party so deals with goods that have been identified to a lease contract as to cause actionable injury to a party to the lease contract (i) the lessor has a right of action against the third party, and (ii) the lessee also has a right of action against the third party if the lessee:

a. has a security interest in the goods;

b. has an insurable interest in the goods; or

c. bears the risk of loss under the lease contract or has since the injury assumed that risk as against the lessor and the goods have been converted or destroyed.

2. If at the time of the injury the party plaintiff did not bear the risk of loss as against the other party to the lease contract and there is no arrangement between them for disposition of the recovery, the plaintiff party's suit or settlement, subject to party plaintiff's own interest, is as a fiduciary for the other party to the lease contract.

3. Either party with the consent of the other may sue for the benefit of whom it may concern.

Sec. 84. NEW SECTION. 554.13532 LESSOR'S RIGHTS TO RESIDUAL INTEREST.

In addition to any other recovery permitted by this Article or other law, the lessor may recover from the lessee an amount that will fully compensate the lessor for any loss of or damage to the lessor's residual interest in the goods caused by the default of the lessee.

Approved April 8, 1994

CHAPTER 1053

REINSTATEMENT PERIOD FOR CERTAIN ADMINISTRATIVELY DISSOLVED CORPORATIONS

H.F. 2342

AN ACT relating to the time limit for an administratively dissolved corporation to file for reinstatement and providing an effective date.

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

Section 1. Section 490.1422, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding the reinstatement period established in subsection 1, a corporation administratively dissolved after December 31, 1984, which files an application for reinstatement prior to January 1, 1996, containing the information required under

subsection 1, shall be treated as if its application had been timely filed under subsection 1. In this case, the secretary of state shall process the application pursuant to subsection 2 and, if a certificate of reinstatement is issued, the provisions of subsection 3 shall apply.

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

Approved April 8, 1994

CHAPTER 1054

HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIOLOGICAL STUDIES

H.F. 2353

AN ACT providing authorization for certain epidemiological studies regarding the incidence and prevalence of the human immunodeficiency virus infection.

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

Section 1. Section 141.23A, Code 1993, is amended to read as follows:

141.23A HUMAN IMMUNODEFICIENCY VIRUS EPIDEMIOLOGICAL ~~BLINDED STUDY~~ STUDIES.

1. ~~Notwithstanding section 141.8 regarding informed consent and reporting requirements, and section 141.22 regarding informed consent and preliminary and posttest counseling, the Iowa~~ The department ~~of public health or its agent~~ with the approval of the state board of health may conduct ~~through the expenditure of federal grant moneys allocated for this purpose an~~ epidemiological blinded ~~study of newborns~~ and nonblinded studies to determine the incidence and prevalence of the human immunodeficiency virus infection. Initiation of any new epidemiological studies shall be contingent upon the receipt of funding sufficient to cover all the costs associated with the studies.

2. ~~All~~ In blinded studies personal identifiers shall be permanently stripped from the specimens selected prior to testing for the human immunodeficiency virus infection. The informed consent and reporting and counseling requirements of sections 141.8 and 141.22 do not apply.

For the purposes of this section, "blinded epidemiological ~~blinded study~~ studies" means ~~a study~~ studies in which ~~blood~~ specimens which were collected for other purposes are selected according to established criteria, are permanently stripped of personal identifiers, and are then tested.

For the purposes of this section, "nonblinded epidemiological studies" means studies in which specimens are collected for the express purpose of testing for the human immunodeficiency virus infection and persons included in the nonblinded study are selected according to established criteria. Sections 141.8 and 141.22 apply to nonblinded epidemiological studies.

Approved April 8, 1994

CHAPTER 1055

RECORDING OF INSTRUMENTS IN COUNTY RECORDER'S OFFICE
H.F. 2401

AN ACT relating to the recording duties of county recorders for limited partnerships, corporations for profit, cooperative associations, and nonprofit corporations.

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

Section 1. Section 331.602, subsections 26, 28, 29, and 33, Code 1993, are amended by striking the subsections.

Sec. 2. Section 331.607, subsection 6, Code 1993, is amended by striking the subsection.

Sec. 3. Section 487.206, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 4. Section 491.5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Before commencing any business except their own organization, they must adopt articles of incorporation, which must be signed and acknowledged by the incorporators. Said articles shall then be forwarded to the secretary of state. Upon the filing of such articles, the secretary of state shall issue a certificate of incorporation and record said articles in a book kept for that purpose. ~~The secretary of state shall then forward said articles to the county recorder of deeds of the county where the principal place of business is to be located, there to be recorded in a book kept therefor, and the recorder shall endorse thereon the book and page where the record will be found.~~

Sec. 5. Section 491.23, Code 1993, is amended to read as follows:

491.23 DISSOLUTION — NOTICE OF — FILING WITH SECRETARY OF STATE.

A corporation may be dissolved prior to the period fixed in the articles of incorporation, by unanimous consent, or in accordance with the provisions of its articles, and notice thereof must be given in the same manner and for the same time as is required for its organization; provided, however, that the notice of such dissolution shall be deemed sufficient if signed by the officers of such corporation and published as required by law. Notice thereof shall also be given by the filing in the office of the secretary of state the proof of publication of notice of dissolution and said proof shall be recorded by the secretary of state in the same manner as the recording of amendments, and a recording fee of one dollar shall apply thereto~~, and the secretary of state shall forward said proof of publication to the county recorder of the county wherein the corporation maintains its place of business, there to be recorded in a book kept therefor~~.

Sec. 6. Section 491.27, Code 1993, is amended to read as follows:

491.27 EXECUTION OF RENEWAL — RECORD REQUIRED.

After the ~~said~~ action of the stockholders for the renewal of any corporation, a certificate, showing the proceedings resulting in ~~such~~ the renewal, sworn to by the president and secretary of the corporation, or by ~~such~~ other officers as may be designated by the stockholders, together with the articles of incorporation, which may be the original articles of incorporation or amended and substituted articles, shall be filed with the secretary of state and be recorded by the secretary in a book kept for that purpose. ~~The secretary of state shall then forward said renewal articles to the recorder of deeds of the county where the principal place of business is located, and the recorder shall record said renewal articles and endorse thereon the book and page where the record will be found.~~

Sec. 7. Section 491.33, Code 1993, is amended to read as follows:

491.33 FOREIGN INSURANCE COMPANIES BECOMING DOMESTIC.

The secretary of state upon a corporation complying with the provisions of this section and upon the filing of articles of incorporation and upon receipt of the fees as provided in this chapter shall issue a certificate of incorporation as of the date of the corporation's original incorporation in its state of original incorporation. The certificate of incorporation shall state on its face

that it is issued in accordance with the provisions of this section. ~~The secretary of state shall forward said articles as provided in this chapter to the county recorder where the principal place of business of the corporation is to be located.~~ The secretary of state shall then notify the appropriate officer of the state or country of the corporation's last domicile that the corporation is now a domestic corporation domiciled in this state. This section applies to life insurance companies, and to insurance companies doing business under chapter 515.

Sec. 8. Section 491.107, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A duly executed and acknowledged copy of the articles of merger or consolidation shall be forwarded to the secretary of state for filing and recording as provided in section 491.5~~, and if a new corporation is created under the provisions of this chapter as the result of consolidation or if an existing Iowa corporation becomes the survivor corporation as the result of a merger the secretary of state shall then forward said articles to the county recorder of deeds of the county where the principal place of business of the new corporation or the existing Iowa corporation is located as provided in section 491.5~~.

Sec. 9. Section 497.3, Code 1993, is amended to read as follows:

497.3 FILING — CERTIFICATE OF INCORPORATION.

The original articles of incorporation of associations organized under this chapter shall be filed with the secretary of state, and be by the secretary recorded in a book kept for that purpose; and if such articles comply with the provisions of sections 497.1 and 497.2, the secretary shall issue a certificate of incorporation to the association. ~~The secretary of state shall then forward said articles of incorporation to the recorder of deeds of the county where the principal place of business is to be located, and the same shall be there recorded by such recorder who shall indorse thereon the book and page where the record will be found and the date of the record.~~ No publication of notice of the incorporation of such an association shall be required.

Sec. 10. Section 497.4, Code 1993, is amended to read as follows:

497.4 FEE.

For filing the articles of incorporation of associations organized under this chapter, there shall be paid to the secretary of state ten dollars, and for the filing of an amendment to such articles, five dollars; provided that when the capital stock of such corporation shall be less than five hundred dollars, such fee for filing either the articles of incorporation or amendments thereto shall be one dollar. In all cases there shall be paid a recording fee of fifty cents per page. ~~For recording copy of such articles, the recorder of deeds shall receive the usual fee for recording.~~

Sec. 11. Section 497.9, Code 1993, is amended to read as follows:

497.9 RECORD OF AMENDMENTS.

Within thirty days after the adoption of an amendment to its articles of incorporation, an association shall cause a copy of ~~such~~ the amendment adopted to be recorded in the office of the secretary of state ~~and of the recorder of deeds of the county where its principal place of business is located~~.

Sec. 12. Section 497.29, Code 1993, is amended to read as follows:

497.29 CHAPTER EXTENDED TO FORMER COMPANIES.

All co-operative corporations, companies, or associations heretofore organized and doing business under prior statutes, or which have attempted to so organize and do business, shall have the benefit of all the provisions of this chapter and be bound thereby, on filing with the secretary of state ~~and the county recorder of the county in which the principal place of business is located~~, amended and substituted articles of incorporation drawn in accordance with the provisions of this chapter and a written declaration, signed and sworn to by the president and secretary to the effect that said co-operative company or association has by a majority vote of its stockholders decided to accept the benefits of and to be bound by the provisions hereof.

Sec. 13. Section 499.43A, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The instrument shall be filed with the secretary of state ~~and with the county recorder in the county in which the principal office of the cooperative association is located~~. The cooperative association shall amend its articles of incorporation pursuant to section 499.41 to comply with the provisions of this chapter. The secretary of state shall not file the instrument unless the cooperative association is in compliance with the provisions of chapter 498 at the time of filing. A cooperative association shall file an annual report which is due pursuant to section 499.49. Upon filing the instrument with the secretary, all of the following shall apply:

Sec. 14. Section 499.67, 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 shall be filed and recorded in the office of the county recorder~~.

Sec. 15. Section 504A.32, subsection 2, Code Supplement 1993, is amended to read as follows:

2. Except for a statement of change of registered office or registered agent filed pursuant to section 504A.9 or 504A.73, and an annual report filed pursuant to section 504A.83, any instrument required to be filed and recorded in the office of the secretary of state only, shall be returned by the secretary to the corporation or its representative. ~~Any instrument required to be filed and recorded in the office of the county recorder shall be returned by the recorder to the corporation or its representative.~~

Sec. 16. REPEAL. Section 491.4, Code 1993, is repealed.

Approved April 8, 1994

CHAPTER 1056

CITY UTILITY AND ENTERPRISE SERVICES – RATES AND CHARGES

S.F. 216

AN ACT relating to rates and charges for city utility and enterprise services by authorizing their collection as combined service accounts, authorizing the discontinuance of services in the event of nonpayment, and providing uniform notice procedures prior to discontinuance of service and prior to certification of lien for nonpayment.

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

Section 1. Section 384.80, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Combined service account" means a customer service account for the provision of two or more utility or enterprise services, regardless of whether those services are being provided by a single city, or by any combination of city utilities, combined utility systems, city enterprises, or combined city enterprises of one or more cities.

NEW SUBSECTION. 5A. "Landlord" means the owner of record of a rental property, or a real estate manager or management company appointed by the owner to administer rental property.

NEW SUBSECTION. 7A. "Owner" means the owner of record as reflected in the records of the county treasurer.

Sec. 2. Section 384.84, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

384.84 RATES AND CHARGES – BILLING AND COLLECTION – CONTRACTS.

1. 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 and charges 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. When revenue bonds or pledge orders are issued and outstanding pursuant to this

division, the governing body 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 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.

2. a. A city utility or enterprise service to a property or premises, including services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, water, solid waste disposal, or any of these services, may be discontinued if the account for the service becomes delinquent. Gas or electric service provided by a city utility or enterprise shall be discontinued only as provided by section 476.20, and discontinuance of those services are subject to rules adopted by the utilities board of the department of commerce.

b. If more than one city utility or enterprise service is billed to a property or premises as a combined service account, all of the services may be discontinued if the account becomes delinquent.

c. A city utility or enterprise service to a property or premises shall not be discontinued unless prior written notice is sent to the account holder by ordinary mail, informing the account holder of the nature of the delinquency and affording the account holder the opportunity for a hearing prior to discontinuance of service. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord.

3. a. 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 services, if not paid as provided by ordinance of the council or resolution of the trustees, are a lien upon the property or premises served by any of these services upon certification to the county treasurer that the rates or charges are due.

b. This lien may be imposed upon a property or premises even if a city utility or enterprise service to the property or premises have been or may be discontinued as provided in this section.

c. A lien for a city utility or enterprise service shall not be certified to the county treasurer for collection unless prior written notice of intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than ten days prior to certification of the lien to the county treasurer.

d. For a residential rental property where a charge for water service is 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 city 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 of the property that the tenant is to occupy, and the 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 city 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.

4. A lien shall not be imposed pursuant to this section for a delinquent charge of less than five dollars. The governing body of the city utility or enterprise may charge up to five dollars, and the county treasurer may charge up to two dollars, as an administrative expense of certifying and filing this lien, which amounts shall be added to the amount of the lien to be collected at the time of payment of the assessment from the payor. Administrative expenses

collected by the county treasurer on behalf of the city utility or enterprise shall be paid to the governing body of the city utility or enterprise, and those collected by the county treasurer on behalf of the county shall be 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.

5. A governing body may declare all or a certain portion of a city as a storm water drainage system district for the purpose of establishing, imposing, adjusting, and providing for the collection of rates as provided in this section. The ordinance provisions for collection of rates of a storm water drainage system may prescribe a formula for determination of the rates which may include criteria and standards by which benefits have been previously determined for special assessments for storm water public improvement projects under this chapter.

6. a. The governing body of a city utility, combined utility system, city enterprise, or combined city enterprise may:

(1) By ordinance of the council or by resolution of the trustees published in the same manner as an ordinance, establish, impose, adjust, and provide for the collection of charges for connection to a city utility or combined utility system.

(2) Contract for the use of or services provided by a city utility, combined utility system, city enterprise, or combined city enterprise with persons whose type or quantity of use or service is unusual.

(3) Lease for a period not to exceed fifteen years all or part of a city enterprise or combined city enterprise, if the lease will not reduce the net revenues to be produced by the city enterprise or combined city enterprise.

(4) Contract for a period not to exceed forty years with other governmental bodies for the use of or the services provided by the city utility, combined utility system, city enterprise, or combined city enterprise on a wholesale basis.

(5) Contract for a period not to exceed forty years with persons and other governmental bodies for the purpose or sale of water, gas, or electric power and energy on a wholesale basis.

b. Two or more city utilities, combined utility systems, city enterprises, or combined city enterprises, including city utilities established pursuant to chapter 388, may contract pursuant to chapter 28E for joint billing or collection, or both, of combined service accounts for utility or enterprise services, or both. The contracts may provide for the discontinuance of one or more of the city utility or enterprise services if a delinquency occurs in the payment of any charges billed under a combined service account.

7. The portion of cost attributable to the agreement or arbitration awarded under section 357A.21 may be apportioned in whole or in part among water customers within an annexed area.

Approved April 12, 1994

CHAPTER 1057

ASBESTOS REMOVAL PERMITS

S.F. 2044

AN ACT relating to technical differences between an asbestos license and an asbestos permit.

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

Section 1. Section 88B.3, subsection 4, Code 1993, is amended to read as follows:

4. At least once a year, during an actual asbestos project, the division shall conduct an on-site inspection of each ~~licensee's~~ permittee's procedures for removing and encapsulating asbestos.

Sec. 2. Section 88B.5, subsection 1, Code 1993, is amended to read as follows:

1. To apply for a license, ~~a business entity~~ an individual shall submit an application to the division in the form required by the division and shall pay the fee prescribed by the division.

Sec. 3. Section 88B.9, subsections 1 and 3, Code 1993, are amended to read as follows:

1. In an emergency that results from a sudden, unexpected event that is not a planned renovation or demolition, the commissioner may waive the requirement for a ~~license~~ permit.

3. If the business entity is not primarily engaged in the removal or encapsulation of asbestos, the commissioner may waive the requirement for a ~~license~~ permit if worker protection requirements are met or an alternative procedure is approved pursuant to subsection 2.

Sec. 4. Section 88B.11, Code 1993, is amended to read as follows:

88B.11 BIDS FOR GOVERNMENTAL PROJECTS.

A state agency or political subdivision shall not accept a bid in connection with any asbestos project from a business entity ~~which~~ that does not hold a ~~license~~ permit from the division at the time the bid is submitted.

Approved April 12, 1994

CHAPTER 1058

DISTRIBUTION OF EARNINGS BY COOPERATIVE ASSOCIATIONS

S.F. 2153

AN ACT providing for the distribution of earnings by cooperative associations operating on a pooling basis.

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

Section 1. Section 499.30, Code 1993, is amended to read as follows:

499.30 DISTRIBUTION OF EARNINGS.

The directors shall annually dispose of the earnings of the association in excess of its operating expenses as follows:

1. To provide a reasonable reserve for depreciation, obsolescence, bad debts, or contingent losses or expenses.

2. a. To the extent that the cooperative association is operating on a pooling basis, the board of directors of the cooperative association shall determine the portion of the remaining earnings derived from the pool that will be added to the surplus. The cooperative association is operating on a pooling basis, if the association markets, sells, or handles an agricultural product and all of the following apply:

(1) The product is a pool composed by commingling units of the same kind of product which are contributed to the cooperative association by its members.

(2) The earnings of the association are computed without deducting a charge for products delivered by members of the association who are contributing units to be commingled in the product pool.

The board of directors may provide an advance payment to the members of the association contributing units of the product to be commingled in the product pool during the contribution period.

b. ~~At~~ To the extent that the cooperative association is not operating on a pooling basis as provided in this subsection, at least ten percent of the remaining earnings must be added to surplus until surplus equals either thirty percent of the total of all capital paid in for stock or memberships, plus all unpaid patronage dividends, plus certificates of indebtedness payable upon liquidation, earnings from nonmember business, and earnings arising from the earnings of other cooperative organizations of which the association is a member, or one thousand dollars, whichever is greater. No additions shall be made to surplus when it exceeds either fifty percent of the total, or one thousand dollars, whichever is greater.

3. Not less than one percent nor more than five percent of ~~such~~ earnings in excess of reserves may be placed in an educational fund, to be used as the directors deem suitable for teaching or promoting co-operation.

4. After ~~the foregoing, to~~ disposing of earnings as provided in subsections 1 and 2, the cooperative association shall pay any fixed dividends on stock or memberships~~, if any~~.

5. Notwithstanding ~~the~~ an association's articles of incorporation ~~of any association~~, for each taxable year of the association ~~beginning after December 31, 1962~~, the association shall allocate all remaining net earnings ~~shall be allocated~~ to the account of each member, including subscribers described in section 499.16, ratably in proportion to the business the member did with the association during that year. The directors shall determine, or the articles of incorporation or bylaws of the association may specify, the percentage or the amount of the allocation that currently shall be paid in cash. However, so long as there are unpaid local deferred patronage dividends of deceased members for prior years, the amount currently payable in cash shall not exceed twenty percent of the allocation. All the remaining allocation not paid in cash shall be transferred to a revolving fund and credited to the members and subscribers. The credits in the revolving fund are referred to in this chapter as deferred patronage dividends.

Approved April 12, 1994

CHAPTER 1059

WATER TREATMENT OPERATOR CERTIFICATION FEES

S.F. 2221

AN ACT relating to use of water treatment operator certification and examination fees by the department of natural resources.

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

Section 1. Section 455B.221, Code 1993, is amended to read as follows:

455B.221 CERTIFICATION AND EXAMINATION FEES.

The director may charge a fee for certificates issued under this part. The fee for the certificates and for renewal shall be based on the costs of administering and enforcing this part and paying the expenses of the department relating to certification. The department shall be reimbursed for all costs incurred. The director shall set a fee for the examination which shall be

based upon the annual cost of administering the examinations. All fees collected shall be ~~remitted to the treasurer of state, who shall deposit the funds in the general fund of the state. Funds shall be appropriated from the general fund to~~ retained by the department for administration of the certification program.

Approved April 12, 1994

CHAPTER 1060

SCHOOL BUS TRANSPORTATION REQUIREMENTS

H.F. 2018

AN ACT relating to school bus transportation requirements.

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

Section 1. Section 285.1, subsection 1, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Districts are not required to maintain seating space on school buses for students who are otherwise to be provided transportation under this subsection if the students do not or will not regularly utilize the district's transportation service for extended periods during the school year. The student, or the student's parent or legal guardian if the student is less than eighteen years of age, shall be notified by the district before transportation services may be suspended, and the suspension may continue until the student, or the student's parent or legal guardian, notifies the district that regular student ridership will continue.

Sec. 2. Section 285.1, subsection 1, unnumbered paragraph 4, Code Supplement 1993, is amended by striking the unnumbered paragraph.

Approved April 12, 1994

CHAPTER 1061

SMOOTH HIGH-TENSILE WIRE FENCES

H.F. 2169

AN ACT relating to lawful fences, by providing for smooth high-tensile wire fences.

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

Section 1. Section 359A.18, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. A fence consisting of four parallel, coated steel, smooth high-tensile wire which meets requirements adopted by the American society of testing and materials, including but not limited to requirements relating to the grade, tensile strength, elongation, dimensions, and tolerances of the wire. The wire must be firmly fastened to plastic, metal, or wooden posts securely planted in the earth. The posts shall not be more than two rods apart. The top wire shall be at least forty inches in height.

Approved April 12, 1994

CHAPTER 1062

BINGO AND OTHER GAMES

H.F. 2192

AN ACT relating to the regulation of bingo, imposing license fees, and subjecting violators to existing penalties.

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

Section 1. Section 99B.1, subsection 21, Code 1993, is amended to read as follows:

21. "Qualified organization" means any licensed ~~person who~~ organization which dedicates the net receipts of a game of skill, game of chance or raffle as provided in section 99B.7 and meets the requirements of section 99B.7, subsection 1, paragraph "m".

Sec. 2. Section 99B.2, subsection 2, Code 1993, is amended to read as follows:

2. A licensee other than one issued a license pursuant to section 99B.3, 99B.6, 99B.7A, or 99B.9 shall maintain proper books of account and records showing in addition to any other information required by the department, gross receipts and the amount of the gross receipts taxes collected or accrued with respect to gambling activities, all expenses, charges, fees and other deductions, and the cash amounts, or the cost to the licensee of goods or other noncash valuables, distributed to participants in the licensed activity. If the licensee is a qualified organization, the amounts dedicated and the date and name and address of each person to whom distributed also shall be kept in the books and records. The books of account and records shall be made available to the department or a law enforcement agency for inspection at reasonable times, with or without notice. A failure to permit inspection is a serious misdemeanor.

Sec. 3. Section 99B.7, subsection 1, paragraph c, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Cash or merchandise prizes may be awarded in the game of bingo and, except as otherwise provided in this paragraph, shall not exceed one hundred dollars. Merchandise prizes may be awarded in the game of bingo, but the actual retail value of the prize, or if the prize consists of more than one item, unit or part, the aggregate retail value of all items, units or parts, shall not exceed the maximum provided by this paragraph. A jackpot bingo game may be conducted once during any twenty-four hour period in which the prize may begin at not more than three hundred dollars in cash or actual retail value of merchandise prizes and may be increased by not more than one hundred dollars after each bingo occasion. However, the cost of play in a jackpot bingo game shall not be increased and the jackpot shall not amount to more than eight hundred dollars in cash or actual retail value of merchandise prizes. A jackpot bingo game is not prohibited by paragraph "h". A bingo occasion shall not last for longer than four consecutive hours. A qualified organization shall not hold more than fourteen bingo occasions per month. Bingo occasions held under a limited license shall not be counted in determining whether a qualified organization has conducted more than fourteen bingo occasions per month, nor shall bingo occasions held under a limited license be limited to four consecutive hours. With the exception of a limited license bingo, no more than three bingo occasions per week shall be held within a structure or building and only one person licensed to conduct games under this section may hold bingo occasions within a structure or building. A licensed qualified organization shall not conduct free games.

Sec. 4. Section 99B.7, subsection 1, paragraph m, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

m. The organization conducting the game can show to the satisfaction of the department that all of the following requirements are met:

(1) The organization is eligible for exemption from federal income taxes under section 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code as defined in section 422.3.

(2) The organization has an active membership of not less than twelve persons.

(3) The organization does not have a self-perpetuating governing body and officers. This lettered paragraph "m" does not apply to a political party, as defined in section 43.2, to a non-party political organization that has qualified to place a candidate as its nominee for statewide office pursuant to chapter 44, or to a candidate's committee as defined in section 56.2.

Sec. 5. Section 99B.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. A qualified organization licensed under this section shall purchase bingo equipment and supplies only from a manufacturer or a distributor licensed by the department.

Sec. 6. NEW SECTION. 99B.7A MANUFACTURERS AND DISTRIBUTORS OF BINGO EQUIPMENT AND SUPPLIES – LICENSE.

A person shall not engage in business as a manufacturer or a distributor of bingo equipment and supplies in this state without first obtaining a license from the department. Upon receipt of an application and a fee of one thousand dollars for a manufacturer's license or a fee of five hundred dollars for a distributor's license, the department shall issue an annual license as applicable. The application shall be submitted on forms furnished by the department and contain the information required by rule of the department. A license may be renewed annually upon payment of the annual licensee* fee and compliance with this chapter.

Approved April 12, 1994

CHAPTER 1063

ALLOTMENTS FOR FOREIGN TRADE OFFICES

S.F. 2224

AN ACT relating to the disbursement of funds to the foreign trade offices of the department of economic development.

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

Section 1. Section 8.31, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Allotments from appropriations for the foreign trade offices of the department of economic development, if the appropriations are described by line item in the department's appropriation Act or another Act, may be made without regard to quarterly periods as is necessary to take advantage of the most favorable foreign currency exchange rates.

Approved April 13, 1994

*The word "license" probably intended

CHAPTER 1064

WORKERS' COMPENSATION MEDIATION – CONFIDENTIALITY
S.F. 2244

AN ACT providing for the confidentiality of certain information provided in workers' compensation mediation.

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

Section 1. Section 22.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Memoranda, work products, and case files of a mediator and all other confidential communications in the possession of a mediator, as provided in chapter 86. Information in these confidential communications is subject to disclosure only as provided in section 86.44, notwithstanding any other contrary provision of this chapter.

Sec. 2. NEW SECTION. 86.44 CONFIDENTIALITY.

All verbal or written information relating to the subject matter of an agreement and transmitted between any party to a dispute and a mediator to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, during any stage of a mediation or a dispute resolution process conducted by a mediator as provided in this section, whether reflected in notes, memoranda, or other work products in the case files, is a confidential communication except as otherwise expressly provided in this chapter. Mediators involved in a mediation or a dispute resolution process shall not be examined in any judicial or administrative proceeding regarding confidential communications and are not subject to judicial or administrative process requiring the disclosure of confidential communications.

For purposes of this section, "mediator" means a chief deputy industrial commissioner or deputy industrial commissioner acting in the capacity to resolve a dispute pursuant to this chapter or chapter 85, 85A, or 85B, or an employee of the division of industrial services involved during any stage of a process to resolve a dispute.

Approved April 13, 1994

CHAPTER 1065

WORKERS' COMPENSATION – MISCELLANEOUS PROVISIONS
S.F. 2245

AN ACT relating to workers' compensation by limiting debt collection of certain health care charges, by providing wage replacement for certain injured workers receiving treatment, by modifying the minimum weekly benefit amount for death, permanent partial disability, or a total disability, by providing for payment of temporary partial disability benefits in certain situations, and by providing an employer credit for the overpayment of certain benefits to employees.

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

Section 1. Section 85.27, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. While a contested case proceeding for determination of liability for workers' compensation benefits is pending before the industrial commissioner relating to an injury alleged to have given rise to treatment, no debt collection, as defined by section 537.7102, shall be undertaken against an employee or the employee's dependents for the collection of charges for that treatment rendered an employee by any health service

provider. However, the health service provider may send one itemized written bill to the employee setting forth the amount of the charges in connection with the treatment after notification of the contested case proceeding.

Sec. 2. Section 85.27, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If, after the third day of incapacity to work following the date of sustaining a compensable injury which does not result in permanent partial disability, or if, at any time after sustaining a compensable injury which results in permanent partial disability, an employee, who is not receiving weekly benefits under section 85.33 or section 85.34, subsection 1, returns to work and is required to leave work for one full day or less to receive services pursuant to this section, the employee shall be paid an amount equivalent to the wages lost at the employee's regular rate of pay for the time the employee is required to leave work. The employer shall make the payments under this paragraph as wages to the employee after making such deductions from the amount as legally required or customarily made by the employer from wages. Payments made under this paragraph shall be required to be reimbursed pursuant to any insurance policy covering workers' compensation. Payments under this paragraph shall not be construed to be payment of weekly benefits.

Sec. 3. Section 85.31, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The weekly benefit amount shall not exceed a weekly benefit amount, rounded to the nearest dollar, equal to ~~sixty-six and two-thirds~~ two hundred percent of the statewide 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. ~~However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the statewide average weekly wage as determined above.~~ The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage~~, or to the spendable weekly earnings of the employee, whichever are less~~. Such compensation shall be in addition to the benefits provided by sections 85.27 and 85.28.

Sec. 4. Section 85.33, subsection 3, Code 1993, is amended to read as follows:

3. If an employee is temporarily, partially disabled and the employer for whom the employee was working at the time of injury offers to the employee suitable work consistent with the employee's disability the employee shall accept the suitable work, and be compensated with temporary partial benefits. If the employee refuses to accept the suitable work with the same employer, the employee shall not be compensated with temporary partial, temporary total, or healing period benefits during the period of the refusal. If suitable work is not offered by the employer for whom the employee was working at the time of the injury and the employee who is temporarily partially disabled elects to perform work with a different employer, the employee shall be compensated with temporary partial benefits.

Sec. 5. Section 85.34, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Compensation for permanent partial disability shall begin at the termination of the healing period provided in subsection 1 ~~of this section~~. The compensation shall be in addition to the benefits provided by sections 85.27 and 85.28. The compensation shall be based upon the extent of the disability and upon the basis of eighty percent per week of the employee's average ~~weekly~~ spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to ~~sixty-one and one-third~~ one hundred eighty-four percent of the statewide 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. ~~However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals ninety-two percent, one hundred twenty-two and two-thirds percent, one hundred fifty-three and one-third percent, and one hundred eighty-four percent, respectively, of the statewide average weekly wage as determined above.~~ The minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage~~, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution, the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage.~~ For all cases of permanent partial disability compensation shall be paid as follows:

Sec. 6. Section 85.34, subsection 3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Compensation for an injury causing permanent total disability shall be upon the basis of eighty percent per week of the employee's average ~~weekly~~ spendable weekly earnings, but not more than a weekly benefit amount, rounded to the nearest dollar, equal to ~~sixty-six and two-thirds~~ two hundred percent of the statewide 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. ~~However, as of July 1, 1975; July 1, 1977; July 1, 1979; and July 1, 1981, the maximum weekly benefit amount rounded to the nearest dollar shall be increased so that it equals one hundred percent, one hundred thirty-three and one-third percent, one hundred sixty-six and two-thirds percent and two hundred percent, respectively, of the statewide average weekly wage as determined above.~~ The minimum weekly benefit amount is equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage~~, or to the spendable weekly earnings of the employee, whichever are less. However, if the employee is a minor or a full-time student under the age of twenty-five in an accredited educational institution the minimum weekly benefit amount shall be equal to the weekly benefit amount of a person whose gross weekly earnings are thirty-five percent of the statewide average weekly wage.~~ The weekly compensation is payable during the period of the employee's disability.

Sec. 7. Section 85.34, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. RECOVERY OF EMPLOYEE OVERPAYMENT. If an employee is paid any weekly benefits in excess of that required by this chapter and chapters 85A, 85B, and 86, the excess paid by the employer shall be credited against the liability of the employer for any future weekly benefits due pursuant to subsection 2, for a subsequent injury to the same employee. An overpayment can be established only when the overpayment is recognized in a settlement agreement approved under section 86.13, pursuant to final agency action in a contested case which was commenced within three years from the date that weekly benefits were last paid for the claim for which the benefits were overpaid, or pursuant to final agency action in a contested case for a prior injury to the same employee. The credit shall remain available for eight years after the date the overpayment was established. If an overpayment is established pursuant to this subsection, the employee and employer may enter into a written settlement agreement providing for the repayment by the employee of the overpayment. The agreement is subject to the approval of the industrial commissioner. The employer shall not take any adverse action against the employee for failing to agree to such a written settlement agreement.

Approved April 13, 1994

CHAPTER 1066

EMPLOYMENT SERVICES — WORKERS' COMPENSATION AND UNEMPLOYMENT COMPENSATION

S.F. 2261

AN ACT relating to employment services by eliminating certain unemployment benefit charges, requiring participation in reemployment services for certain individuals receiving unemployment benefits, making the voluntary shared work program permanent, and making changes to the workers' compensation laws.

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

Section 1. Section 87.1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Every employer subject to the provisions of this and chapters 85, 85A, 85B, and 86, unless relieved therefrom as hereinafter provided, shall insure the employer's liability thereunder in some corporation, association, or organization approved by the commissioner of insurance.

Sec. 2. Section 87.2, Code 1993, is amended to read as follows:

87.2 NOTICE OF FAILURE TO INSURE.

~~Any~~ An employer who fails to insure the employer's liability as required ~~herein~~ by this chapter shall keep posted a sign of sufficient size and so placed as to be easily seen by the employer's employees in the immediate vicinity where working, which sign shall read as follows:

NOTICE TO EMPLOYEES

You are hereby notified that the undersigned employer has failed to insure the employer's liability to pay compensation as required by law, and that because of such failure the employer is liable to the employer's employees in damages for personal injuries sustained by the employer's employees ~~in the same manner and to the same extent as though the employer had legally exercised the employer's right to reject the provisions relating to compensation~~.

(Signed) .....

~~Any~~ An employer coming under the provisions of this and chapters 85, 85A, 85B, and 86 who fails to comply with this section or to post and keep the above notice in the manner and form ~~herein~~ required, shall be guilty of a simple misdemeanor.

Sec. 3. NEW SECTION. 87.14A INSURANCE OR BOND REQUIRED.

An employer subject to this chapter and chapters 85, 85A, 85B, and 86 shall not engage in business without first obtaining insurance covering compensation benefits or obtaining relief from insurance as provided in this chapter or furnishing a bond pursuant to section 87.16. A person who willfully and knowingly violates this section is guilty of a class "D" felony.

Sec. 4. Section 87.15, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

87.15 INJUNCTIONS.

If a violation of section 87.14A has been committed or there is reason to believe a violation of section 87.14A is about to be committed, the attorney general or the county attorney from the county in which a violation has occurred or is about to occur shall, or any person may, bring an action to enjoin such person from committing the violation and the court or judge before whom the action is brought shall, if the facts warrant, issue a temporary or permanent writ of injunction without bond.

Sec. 5. Section 87.16, Code 1993, is amended to read as follows:

87.16 BOND IN LIEU OF INSURANCE.

~~Any~~ An employer ~~who has more than five persons engaged in hazardous employment, except the employments recited in section 85.1, and~~ subject to this chapter and chapters 85, 85A, 85B, and 86 who has failed~~, omitted, and neglected~~ to secure the payment of compensation by carrying insurance or is not relieved ~~therefrom as by the statutes in such cases provided~~ from carrying insurance as provided in this chapter, shall furnish a bond approved by the industrial

commissioner, as to form and security, conditioned to secure and pay workers' compensation or damages in accordance with the law; ~~such~~. The bond shall be in ~~such~~ an amount as may be fixed by the industrial commissioner having due regard for the number of employees and considering the industrial experience in ~~such~~ the industry as a class.

Sec. 6. Section 96.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The individual participates in reemployment services as directed by the division pursuant to a profiling system, established by the division, which identifies individuals who are likely to exhaust benefits and be in need of reemployment services.

Sec. 7. Section 96.40, subsection 11, Code 1993, is amended by striking the subsection.

Sec. 8. Sections 87.12 and 87.14, Code 1993, are repealed.

Sec. 9. 1992 Iowa Acts, chapter 1056, section 3, is repealed.

Sec. 10. RELIEF FROM DISASTER-RELATED UNEMPLOYMENT BENEFIT CHARGES TO EMPLOYERS. Notwithstanding section 96.7, subsection 2, an account of an employer shall not be charged with benefits paid to an individual for unemployment that is directly caused by the presidentially declared disasters, numbered 986 and 996, for benefits paid from April 13, 1993, through January 8, 1994, for the purpose of calculating the employer's contribution rate pursuant to criteria established by the division of job service of the department of employment services. This relief from charges for benefits paid from April 13, 1993, through January 8, 1994, does not apply to employers who are required or who have elected to reimburse the fund in lieu of paying contributions or to employers otherwise ineligible for relief under this section pursuant to criteria established by the division of job service.

Approved April 13, 1994

CHAPTER 1067

UNDERGROUND STORAGE TANK LENDER LIABILITY

H.F. 2118

AN ACT relating to underground storage tank lender liability.

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

Section 1. Section 455B.471, subsection 6, paragraph b, Code Supplement 1993, is amended to read as follows:

b. ~~"Owner"~~ To the extent consistent with the federal Resource Conservation and Recovery Act, as amended to January 1, 1994, 42 U.S.C. § 6901 et seq., "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:

(1) 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.

(2) 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.

(3) 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.

Approved April 13, 1994

CHAPTER 1068

PUBLIC HEALTH — MISCELLANEOUS PROVISIONS

H.F. 2145

AN ACT relating to public health issues regarding persons with brain injury, substance abuse treatment programs, the health data commission, vital records services, and immunizations.

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

Section 1. Section 125.13, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. A substance abuse treatment program not funded by the department which is accredited or licensed by the joint commission on the accreditation of health care organizations, the commission on the accreditation of rehabilitation facilities, the American osteopathic association, or another recognized organization approved by the commission. All survey reports from the accrediting or licensing body must be sent to the department.

Sec. 2. Section 125.59, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. The county shall submit an accounting of the expenditures and shall submit an annual financial report, a description of the program, and the results obtained ~~before June 10~~ within sixty days after the end of the ~~same~~ fiscal year in which the money is granted.

Sec. 3. Section 135.22, Code 1993, is amended to read as follows:

135.22 CENTRAL REGISTRY FOR BRAIN INJURIES.

1. As used in this section, ~~section 135.22A, and section 225C.23,~~ "brain injury" means clinically evident brain damage or spinal cord injury resulting ~~directly or indirectly~~ from trauma~~, infection,~~ or anoxia, ~~or vascular lesions not primarily related to degenerative or aging processes,~~ which temporarily or permanently impairs a person's physical or cognitive functions.

2. The director shall establish and maintain a central registry of persons with brain injuries in order to facilitate prevention strategies and the provision of appropriate rehabilitative services to the persons by the department and other state agencies. ~~For a patient who is not admitted to a hospital but is treated in a physician's office, physicians shall report a brain injury to the director within seven days after identification of the person sustaining a brain injury.~~ Hospitals shall report patients who are admitted with a brain injury and their diagnoses to the director no later than forty-five days after the close of a quarter in which the

patient was discharged. The report shall contain the name, age and residence of the person, the date, type, and cause of the brain injury, and additional information as the director requires, except that where available, ~~physicians and~~ hospitals shall report the Glascow coma scale. The director shall consult with health care providers concerning the availability of additional relevant information. The department shall maintain the confidentiality of all information which would identify any person named in a report. However, the identifying information may be released for bona fide research purposes if the confidentiality of the identifying information is maintained by the researchers, or the identifying information may be released by the person with the brain injury or by the person's guardian or, if the person is a minor, by the person's parent or guardian.

Sec. 4. Section 135.22A, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. "Head injury" means "brain injury" as defined in section ~~135.22~~ 225C.23.

Sec. 5. Section 139.9, subsection 2, Code 1993, is amended to read as follows:

2. ~~No~~ A person shall not be enrolled in any licensed child care center, elementary or secondary school in Iowa without evidence of adequate immunization against diphtheria, pertussis, tetanus, poliomyelitis, rubeola, and rubella~~,~~. ~~except as provided in~~ Evidence of adequate immunization against haemophilus influenza b shall be required prior to enrollment in any licensed child care center. Immunizations shall be provided according to recommendations provided by the Iowa department of health subject to the provisions of subsections 3 and 4.

Sec. 6. Section 145.1A, Code Supplement 1993, is amended to read as follows:

145.1A REPEAL.

This chapter is repealed effective July 1, ~~1994~~ 1996.

Sec. 7. Section 225C.23, Code 1993, is amended to read as follows:

225C.23 BRAIN INJURY RECOGNIZED AS DISABILITY.

The department of human services, the Iowa department of public health, the department of education and its divisions of special education and vocational rehabilitation, the department of human rights and its division for persons with disabilities, the department for the blind, and all other state agencies which serve persons with brain injuries, shall recognize brain injury as a distinct disability and shall identify those persons with brain injuries among the persons served by the state agency. For the purposes of this section and section 135.22A, "brain injury" means clinically evident brain damage or spinal cord injury resulting directly or indirectly from trauma, infection, anoxia, or vascular lesions not primarily related to degenerative or aging processes, which temporarily or permanently impairs a person's physical or cognitive functions.

Sec. 8. 1993 Iowa Acts, chapter 55, section 1, subsection 2, is amended to read as follows:

2. The department shall adopt rules providing for an increase in the fees charged by the state registrar and the clerks of the district court 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~~ Notwithstanding section 144.46, 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.

Approved April 13, 1994

CHAPTER 1069

ELUDING A LAW ENFORCEMENT VEHICLE

H.F. 2153

AN ACT relating to eluding a law enforcement vehicle by prohibiting eluding while participating in the commission of a felony, making changes in the provisions applicable to unintentional death or serious injury caused as a result of eluding, and providing penalties.

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

Section 1. Section 321.279, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The driver of a motor vehicle commits an aggravated misdemeanor if, while participating in a public offense, as defined in section 702.13, that is a felony, the driver willfully fails to bring the motor vehicle to a stop or otherwise eludes or attempts to elude a marked official law enforcement vehicle that is driven by a uniformed peace officer after being given a visual or audible signal as provided in this section.

Sec. 2. Section 707.6A, subsections 1, 2, and 3, Code 1993, are amended to read as follows:

1. A person commits a class "C" felony when the person unintentionally causes the death of another by ~~either~~ any of the following means:

a. Operating a motor vehicle while under the influence of alcohol or other drug or a combination of such substances or while having an alcohol concentration, as defined in section 321J.1, subsection 1, of .10 or more. Upon a plea or verdict of guilty of a violation of this paragraph, the court shall order the state department of transportation to revoke the defendant's motor vehicle license or nonresident operating privileges for a period of six years. The defendant shall surrender to the court any Iowa license or permit and the court shall forward it to the department with a copy of the revocation order.

b. Driving a motor vehicle in a reckless manner with willful or wanton disregard for the safety of persons or property, in violation of section 321.277.

c. Eluding or attempting to elude a pursuing law enforcement vehicle, in violation of section 321.279, if the death of the other person directly or indirectly results from the violation.

2. A person commits a class "D" felony when the person unintentionally causes the death of another ~~by operating a motor vehicle in any of the following manners:~~

~~a.~~ ~~Drag~~ while drag racing, in violation of section 321.278.

~~b. Eluding or attempting to elude a pursuing law enforcement vehicle, in violation of section 321.279.~~

3. A person commits an aggravated misdemeanor when the person unintentionally causes a serious injury, as defined in section 321J.1, subsection 8, by ~~either~~ any of the means described in subsection 1 of this section.

Approved April 13, 1994

CHAPTER 1070

INVESTMENT OF FUNDS PAID TO DISTRICT COURT CLERKS
H.F. 2197

AN ACT relating to the investment of funds paid to the clerk of the district court.

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

Section 1. Section 602.8103, subsection 5, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. In addition, the money may be invested in an open-end management investment company organized in trust form registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to obligations of the United States of America or agencies or instrumentalities of the United States of America and to repurchase agreements fully collateralized by obligations of the United States of America or an agency or instrumentality of the United States of America if the investment company takes delivery of the collateral either directly or through an authorized custodian.

Approved April 13, 1994

CHAPTER 1071

CITY CIVIL SERVICE
H.F. 2218

AN ACT relating to civil service employment, to the probationary employment period for police dispatchers and to certain fire fighters, to civil service lists for certain cities, and providing retroactive applicability and effective dates.

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

Section 1. Section 400.8, subsection 3, Code Supplement 1993, is amended to read as follows:

3. All appointments to such positions shall be conditional upon a probation period of not to exceed six months, and in the case of police patrol officers, police dispatchers, and fire fighters a probation period not to exceed twelve months, ~~during which time~~. However, in cities with a population over one hundred seventy-five thousand, appointments to the position of fire fighter shall be conditional upon a probation period of not to exceed twenty-four months. During the probation period, the appointee may be removed or discharged from such position by the appointing person or body without the right of appeal to the commission. A person removed or discharged during a probationary period shall, at the time of discharge, be given a notice in writing stating the reason or reasons for the dismissal. A copy of such notice shall be promptly filed with the commission. Continuance in the position after the expiration of such probationary period shall constitute a permanent appointment.

Sec. 2. Section 400.11, Code Supplement 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. However, for a city with a population over one hundred seventy-five thousand, the commission may hold in reserve, for original appointments to the position of fire fighter and for promotions in the fire department, additional lists of ten persons each next highest in standing, in order of their grade, or such number as may qualify if less than ten. If the list of ten persons provided in the first paragraph is exhausted within one year, the commission may certify such 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 to the position of fire fighter only, no more than four lists, with each list containing two groups of ten persons each, shall be certified for each one-year period of eligibility.

Sec. 3. APPLICABILITY. That portion of section 1 of this Act which amends Code section 400.8 by setting a probationary period not to exceed twenty-four months for persons appointed to the position of fire fighter in a city with a population over one hundred seventy-five thousand applies retroactively to January 1, 1994, for appointments made on or after that date. Section 2 of this Act, amending Code section 400.11, applies retroactively to January 1, 1994, to lists for original appointments certified on or after that date.

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

Approved April 13, 1994

CHAPTER 1072

INSURANCE FRAUD

H.F. 2314

AN ACT relating to insurance fraud and establishing an insurance fraud bureau within the insurance division of the department of commerce.

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

Section 1. NEW SECTION. 507E.1 TITLE.

This chapter may be cited as the "Iowa Insurance Fraud Act".

Sec. 2. NEW SECTION. 507E.2 PURPOSE.

An insurance fraud bureau is created within the insurance division. Upon a reasonable determination by the division, by its own inquiries or as a result of complaints filed with the division, that a person has engaged in, is engaging in, or may be engaging in an act or practice that violates this chapter or any other provision of the insurance code, the division may administer oaths and affirmations, serve subpoenas ordering the attendance of witnesses, and collect evidence related to such act or practice.

Sec. 3. NEW SECTION. 507E.3 FRAUDULENT SUBMISSIONS — PENALTY.

1. For purposes of this chapter, "statement" includes, but is not limited to, any notice, statement, proof of loss, bill of lading, receipt for payment, invoice, account, estimate of property damage, bill for services, diagnosis, prescription, hospital or physician record, X ray, test result, or other evidence of loss, injury, or expense.

2. A person commits a class "D" felony, if the person, with the intent to defraud an insurer, does either of the following:

a. Presents or causes to be presented to an insurer, any written document or oral statement, including a computer-generated document, as part of, or in support of, a claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

b. Assists, abets, solicits, or conspires with another to present or cause to be presented to an insurer, any written document or oral statement, including a computer-generated document, that is intended to be presented to any insurer in connection with, or in support of, any claim for payment or other benefit pursuant to an insurance policy, knowing that such document or statement contains any false information concerning a material fact.

Sec. 4. NEW SECTION. 507E.4 EXAMINATION OF INFORMATION OUTSIDE THE STATE.

The bureau shall seek to obtain by request, any information related to the enforcement of this chapter in the possession of a person located outside the state. The bureau may designate a representative, including an official of the state where the information is located, to inspect the information on behalf of the bureau at the place where the information is located. The bureau may respond to similar requests from an official from another state.

Sec. 5. NEW SECTION. 507E.5 CONFIDENTIALITY.

Notwithstanding chapter 22, the papers, documents, reports, or evidence in the possession of the bureau which are related to the subject of an investigation under this chapter shall not be subject to public inspection as long as the bureau deems such confidentiality reasonably necessary to complete the investigation, to protect the person investigated from unwarranted injury, or not to be in the public interest. Additionally, such papers, documents, reports, or evidence related to the subject of an investigation under this chapter is not subject to subpoena until opened for public inspection by the bureau, upon the consent of the bureau, or until the court determines, after notice to the bureau and hearing, that the bureau would not be unnecessarily hindered by such subpoena. An investigator of the bureau is not subject to subpoena in a civil action concerning any matter of which the investigator has knowledge pursuant to a pending investigation by the bureau pursuant to this chapter.

Sec. 6. NEW SECTION. 507E.6 DUTIES OF INSURER.

An insurer which believes that a claim is being made which is a violation of section 507E.3 shall provide, within sixty days of the receipt of such claim, written notification to the bureau of the claim on a form prescribed by the bureau, including any additional information requested by the bureau related to the claim or the party making the claim. The fraud bureau shall review each notification and determine whether further investigation is warranted. If the bureau determines that further investigation is warranted, the bureau shall conduct an independent investigation of the facts surrounding the claim to determine the extent, if any, to which fraud occurred in the submission of the claim. The bureau shall report any alleged violation of law disclosed by the investigation to the appropriate licensing agency or prosecuting authority having jurisdiction with respect to such violation.

Sec. 7. NEW SECTION. 507E.7 IMMUNITY FROM LIABILITY.

1. A person acting without malice, fraudulent intent, or bad faith, is not liable civilly as a result of filing a report or furnishing, orally or in writing, other information concerning alleged acts in violation of this chapter, if the report or information is provided to or received from any of the following:

a. Law enforcement officials, their agents and employees.

b. The national association of insurance commissioners, the insurance division, a federal or state governmental agency or bureau established to detect and prevent fraudulent insurance acts, or any other organization established for such purpose, and their agents, employees, or designees.

2. This section does not affect in any way any common law or statutory privilege or immunity applicable to such person or entity.

3. A person or entity against whom an action is brought for libel, slander, or any other relevant tort, where the action involves acts subject to immunity under this section and is not substantially justified, is entitled to an award of court costs and reasonable attorney fees. For purposes of this section, an action is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

Sec. 8. NEW SECTION. 507E.8 PEACE OFFICER STATUS.

Bureau investigators shall have the power and status of peace officers when making arrests for criminal violations established as a result of their investigations pursuant to this chapter. The general laws applicable to arrests by peace officers of the state also apply to bureau

investigators. Bureau investigators shall have the power to execute arrest warrants and search warrants for the same criminal violations, serve subpoenas issued for the examination, investigation, and trial of all offenses identified through their investigations, and arrest upon probable cause without warrant a person found in the act of committing a violation of the provisions of this chapter.

Sec. 9. CREATION OF INSURANCE FRAUD BUREAU CONTINGENT UPON FUNDING. The creation of an insurance fraud bureau within the insurance division shall only be implemented, and this Act shall only be effective, if the state receives a federal grant for its implementation and the general assembly appropriates matching funds from the general fund of the state for its implementation.

Approved April 13, 1994

CHAPTER 1073

ASSESSMENTS FOR CONNECTION TO CITY SEWER OR WATER UTILITIES

H.F. 2343

AN ACT authorizing cities to assess and collect fees for connection to a sewer or water utility.

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

Section 1. Section 384.38, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A city may establish, by ordinance after notice and a public hearing consistent with the requirements of section 384.50, one or more districts and schedules of fees for the connection of property to the city sewer or water utility. Each person whose property will be served by connecting to the city sewer or water utility shall pay a connection fee to the city. The ordinance shall be certified by the city and recorded in the office of the county recorder of the county in which a district is located. The connection fees are due and payable when a utility connection application is filed with the city. A connection fee shall not exceed the equitable part of the total original cost to the city of extending the utility to the properties within the district, less any part of the cost which has been previously assessed or paid to the city under this division IV. All fees collected under this subsection shall be paid to the city treasurer. The moneys collected as fees shall only be used for the purposes of operating the utility, or to pay debt service on obligations issued to finance improvements or extensions to the utility.

Approved April 13, 1994

CHAPTER 1074

COLLECTION AND DISPOSITION OF COURT FEES, FINES, AND SURCHARGES

S.F. 413

AN ACT relating to the collection and disposition of civil and criminal fees and fines, distribution of court revenue.

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

Section 1. Section 144.46, Code 1993, is amended to read as follows:

144.46 FEE FOR COPY OF RECORD.

The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the clerk of the district court for each certified copy or short form certification of certificates or records, or for a search of the files or records when no copy is made, or when no record is found on file. Fees collected by the state registrar under this section shall be deposited in the general fund of the state. Fees collected by the clerk of the district court shall be deposited in the ~~court revenue distribution~~ account established under section 602.8108. A fee shall not be collected from a political subdivision or agency of this state.

Sec. 2. Section 321.491, unnumbered paragraph 3, Code Supplement 1993, is amended to read as follows:

The abstract must be made upon a form furnished by the department or by copying a uniform citation and complaint or by using an electronic process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or reproduction of the citation, and ~~shall~~ must include the name and address of the party charged, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, or whether the bail was forfeited, the amount of the fine or forfeiture, and any court recommendation, if any, that the person's motor vehicle license be suspended. The department shall consider and act upon the recommendation.

Sec. 3. Section 331.427, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Except as otherwise provided by state law, county revenues from taxes and other sources for general county services shall be credited to the general fund of the county, including revenues received under sections 101A.3, 101A.7, 123.36, 123.143, 142B.6, 176A.8, 321.105, 321.152, 321G.7, 331.554, subsection 6, 341A.20, 364.3, 368.21, 422.65, 422A.2, 428A.8, 430A.3, 433.15, 434.19, 445.57, 453A.35, 458A.21, 483A.12, 533.24, 556B.1, 567.10, 583.6, 602.8108, 904.908, and 906.17, ~~and 911.3,~~ and chapter 405A, and the following:

Sec. 4. Section 364.3, subsection 2, Code 1993, is amended to read as follows:

2. A city shall not provide a penalty in excess of a one hundred dollar fine or in excess of thirty days imprisonment for the violation of an ordinance. An amount equal to ten percent of all fines collected by cities shall be deposited in the ~~court revenue distribution~~ account established in section 602.8108. However, one hundred percent of all fines collected by a city pursuant to section 321.236, subsection 1, shall be retained by the city. The criminal penalty surcharge required by section 911.2 shall be added to a city fine and is not a part of the city's penalty.

Sec. 5. Section 602.8105, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

602.8105 FEES FOR CIVIL CASES AND OTHER SERVICES — COLLECTION AND DISPOSITION.

1. The clerk of the district court shall collect the following fees:

a. For filing and docketing a petition, other than a modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of modification, eighty dollars. In counties having a population of ninety-eight thousand or over, an additional five dollars shall be charged and collected to be known as the journal publication fee and used for the purposes provided for in section 618.13.

b. For filing and docketing an application for modification of a dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of modification, twenty-five dollars.

c. For entering a final decree of dissolution of marriage, thirty dollars. It is the intent of the general assembly that the funds generated from the dissolution fees be appropriated and used for sexual assault and domestic violence centers.

d. For filing and docketing a small claims action, the amounts specified in section 631.6.

e. For an appeal from a judgment in small claims or for a writ of error, fifty dollars.

2. The clerk of the district court shall collect the following fees for miscellaneous services:

a. For filing an application for a license to marry, thirty dollars. For issuing an application for an order of the district court authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license, five dollars. The court shall authorize the issuance of a marriage license without the payment of any fees imposed by this paragraph upon a showing that the applicant is unable to pay the fees.

b. For filing, entering, and endorsing a mechanic's lien, ten dollars, and if a suit is brought, the fee is taxable as other costs in the action.

c. For filing and entering an agricultural supply dealer's lien and any other statutory lien, ten dollars.

d. For a certificate and seal, ten dollars. However, there shall be no charge for a certificate and seal to an application to procure a pension, bounty, or back pay for a soldier or other person.

e. For certifying a change in title of real estate, ten dollars.

f. Other fees provided by law.

3. The clerk of the district court shall pay to the treasurer of state all fees which have come into the clerk's possession and which are unclaimed pursuant to section 556.8 accompanied by a form prescribed by the treasurer. Claims for payment of the moneys must be filed pursuant to chapter 556.

Sec. 6. Section 602.8106, Code Supplement 1993, is amended by striking the section and inserting in lieu thereof the following:

602.8106 COLLECTION OF FEES IN CRIMINAL CASES AND DISPOSITION OF FEES AND FINES.

1. The clerk of the district court shall collect the following fees:

a. Except as otherwise provided in paragraphs "b" and "c", for filing and docketing a criminal case to be paid by the county or city which has the duty to prosecute the criminal action, payable as provided in section 602.8109, thirty dollars. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city which has the duty to prosecute the criminal action to the extent necessary for reimbursement for fees paid. However, the fees which are payable by the county to the clerk of the district court for services rendered in criminal actions prosecuted under state law and in habitual offender actions pursuant to section 321.556, and the court costs taxed in connection with the trial of those actions or appeals from the judgments in those actions are waived.

b. For filing and docketing of a complaint or information for a simple misdemeanor and a complaint or information for a nonscheduled simple misdemeanor under chapter 321, twenty-five dollars.

c. For filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, one dollar, effective January 1, 1991. The court costs in cases of parking meter and overtime parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint, are eight dollars per information or complaint or per uniform citation and complaint effective January 1, 1991.

d. The court costs in scheduled violation cases where a court appearance is required are twenty-five dollars.

e. For court costs in scheduled violation cases where a court appearance is not required, fifteen dollars.

f. For an appeal of a simple misdemeanor to the district court, fifty dollars.

2. The clerk of the district court shall remit ninety percent of all fines and forfeited bail to the city that was the plaintiff in any action, and shall provide that city with a statement showing the total number of cases, the total of all fines and forfeited bail collected, and the total of all cases dismissed. The remaining ten percent shall be submitted to the state court administrator.

3. The clerk of the district court shall remit all fines and forfeited bail for violation of a county ordinance, except an ordinance relating to vehicle speed or weight restrictions, to the county treasurer of the county that was the plaintiff in the action, and shall provide that county with a statement showing the total number of cases, the total of all fines and forfeited bail collected, and the total of all cases dismissed. However, if a county ordinance provides a penalty for a violation which is also penalized under state law, the fines and forfeited bail collected for the violation shall be submitted to the state court administrator.

4. The clerk of the district court shall submit all other fines, fees, costs, and forfeited bail received from a magistrate to the state court administrator.

Sec. 7. Section 602.8108, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

602.8108 DISTRIBUTION OF COURT REVENUE.

1. The clerk of the district court shall establish an account and deposit in this account all revenue and other receipts. Not later than the fifteenth day of each month, the clerk shall distribute all revenues received during the preceding calendar month. Each distribution shall be accompanied by a statement disclosing the total amount of revenue received during the accounting period and any adjustments of gross revenue figures that are necessary to reflect changes in the balance of the account, including but not limited to reductions resulting from the dishonor of checks previously accepted by the clerk.

2. Except as otherwise provided, the clerk of the district court shall report and submit to the state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as provided in subsection 5, the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative fiscal bureau within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

3. When a court assesses a criminal surcharge under section 911.2, the amounts collected shall be distributed as follows:

a. The clerk of the district court shall submit to the state court administrator, not later than the fifteenth day of each month, ninety-five percent of the surcharge collected during the preceding calendar month. The clerk shall remit the remainder to the county treasurer of the county that was the plaintiff in the action or to the city that was the plaintiff in the action.

b. Of the amount received from the clerk, the state court administrator shall allocate eighteen percent to be deposited in the fund established in section 912.14 and eighty-two percent to be deposited in the general fund.

4. A court technology and modernization fund is established as a separate fund in the state treasury. The state court administrator shall allocate one million dollars of the moneys received under subsection 2 to be deposited in the fund, which shall be administered by the supreme court and shall be used as follows:

a. Eighty percent shall be used to enhance the ability of the judicial department to process cases more quickly and efficiently, to electronically transmit information to state government, local governments, law enforcement agencies, and the public, and to improve public access to the court system. Moneys in this paragraph shall not be used for the Iowa court information system.

b. Twenty percent shall be used in equal amounts to facilitate alternative dispute resolution and methods to resolve domestic abuse cases, which may include personnel for hearings under section 236.4.

Sec. 8. Section 625.8, subsection 3, Code 1993, is amended to read as follows:

3. Revenue from the fees required by this section shall be deposited in the ~~court revenue distribution~~ account established under section 602.8108.

Sec. 9. Section 626A.5, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

626A.5 FEE.

For filing a foreign judgment, the clerk shall collect a fee in the amount collected for filing and docketing a petition under section 602.8105, subsection 1, paragraph "a".

Sec. 10. Section 631.6, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

631.6 FEES AND COSTS.

1. The clerk of the district court shall collect the following fees and costs in small claims actions, which shall be paid in advance and assessed as costs in the action:

a. Fees for filing and docketing shall be thirty dollars.

b. Fees for service of notice on nonresidents are as provided in section 617.3.

c. Postage charged for the mailing of original notice shall be the actual costs of the postage.

d. Fees for personal service by peace officers or other officials of the state are the amounts specified by law.

2. The amounts collected for filing and docketing shall be distributed as provided in section 602.8108.

Sec. 11. Section 633.20, subsection 2, Code Supplement 1993, is amended to read as follows:

2. The court may appoint the clerk as referee in probate. In such cases, the fees received by the clerk for serving in the capacity of referee are fees of the office of the clerk of court and shall be deposited in the ~~court revenue distribution~~ account established under section 602.8108.

Sec. 12. Section 633.31, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The clerk shall charge and collect the following fees in connection with probate matters, which shall be deposited in the ~~court revenue distribution~~ account established under section 602.8108:

Sec. 13. Section 633.31, subsection 2, paragraph i, Code 1993, is amended to read as follows:

i. For certifying change of title ..... ~~5.00~~ 10.00

Sec. 14. Section 674.10, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

674.10 FEE.

For filing a petition for change of name, the clerk shall collect a fee in the amount collected for filing and docketing a petition under section 602.8105, subsection 1, paragraph "a".

Sec. 15. Section 805.6, subsection 1, paragraph a, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The commissioner of public safety, the director of transportation, and the director of natural resources, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by section 805.8 to be scheduled violations. The filing fees and court costs in cases of parking meter and overtime parking violations which are denied are as stated in section 602.8106, subsection 1. The court costs in scheduled violation cases where a court appearance is not required are ~~ten dollars~~ as stated in section 602.8106, subsection 1. The court costs in scheduled violation cases

where a court appearance is required are ~~fifteen dollars~~ as stated in section 602.8106, subsection 1. This subsection does not prevent the charging of any of those violations by information, by private complaint filed under chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward an abstract of the uniform citation and complaint in accordance with section 321.491 when applicable.

Sec. 16. Section 805.6, subsection 1, paragraph a, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding other contrary requirements of this section, a uniform citation may be originated from a computerized device. The officer issuing the citation through a computerized device shall give two copies of the citation to the person cited and shall provide a record of the citation to the court where the person cited is to appear and to the law enforcement agency of the officer by an electronic process which accurately reproduces or forms a durable medium for accurately and legibly reproducing an unaltered image or copy of the citation.

Sec. 17. Section 911.1, Code 1993, is amended to read as follows:

911.1 CRIMINAL PENALTY SURCHARGE ESTABLISHED.

A criminal penalty surcharge shall be levied against certain law violators as provided in section 911.2. The surcharge shall be deposited as provided in section ~~911.3~~ 602.8108, subsection 3, and shall be used for the maintenance and improvement of criminal justice programs, law enforcement efforts, victim compensation, crime prevention, and improvement of the professional training of personnel, and the planning and support services of the criminal justice system.

Sec. 18. Section 911.3, Code 1993, is repealed.

Approved April 14, 1994

CHAPTER 1075

CITY EMERGENCY MEDICAL SERVICES DISTRICTS

H.F. 2116

AN ACT relating to the establishment of city emergency medical services districts, and the levying of a property tax, and providing a retroactive applicability date.

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

Section 1. NEW SECTION. 357G.1 DEFINITIONS.

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

1. "Council" means the city council of a city.
2. "District" means a city emergency medical services district.
3. "Trustee" means a trustee of a district.

Sec. 2. NEW SECTION. 357G.2 PETITION FOR PUBLIC HEARING.

1. The council shall, on the petition of twenty-five percent of the resident property owners in a proposed district if the assessed valuation of the property owned by the petitioners represents at least twenty-five percent of the total assessed value of the proposed district, hold a public hearing concerning the establishment of a proposed district. The petition shall

include a statement containing the following information:

a. The need for emergency medical services.

b. The district to be served.

c. The approximate number of families in the district.

d. The proposed personnel, equipment, and facilities to provide the emergency medical services.

2. The council may require a bond of the petitioners conditioned for the payment of all costs and expenses incurred in the proceedings in case the district is not established.

Sec. 3. NEW SECTION. 357G.3 LIMITATION ON AREA.

A district shall include all of the incorporated area of a city except property assessed as agricultural land, or centrally assessed property.

Sec. 4. NEW SECTION. 357G.4 TIME OF HEARING.

The public hearing required in section 357G.2 shall be held within thirty days of the presentation of the petition. Notice of hearing shall be given by publication in two successive issues of any paper of general circulation within the district. The last publication shall be not less than one week before the proposed hearing.

Sec. 5. NEW SECTION. 357G.5 ACTION BY COUNCIL.

After, and within ten days of, the hearing, the council shall either establish the district by resolution or disallow the petition.

Sec. 6. NEW SECTION. 357G.6 ENGINEER.

1. When the council establishes a district, the council shall appoint a competent disinterested civil engineer, who shall prepare a preliminary plat showing:

a. The proper design in general outline of the district.

b. The lots and parcels of land within the proposed district as they appear on the city assessor's or county auditor's plat books with the names of the owners.

c. The assessed valuation of the lots and parcels.

2. The compensation of the engineer on the preliminary investigation shall be determined by the council. The engineer shall file a report with the city assessor within thirty days of appointment. The council may extend the time upon good cause shown.

Sec. 7. NEW SECTION. 357G.7 HEARING ON ENGINEER'S REPORT.

After the engineer's report is filed, the council shall give notice, as provided in section 357G.4, of a public hearing to be held concerning the engineer's preliminary plat.

Sec. 8. NEW SECTION. 357G.8 ELECTION ON PROPOSED LEVY.

When a preliminary plat has been approved by the council, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax of not more than one dollar per thousand dollars of assessed value on all the taxable property within the district and to choose candidates for the offices of trustees of the district. The ballot shall set out the reason for the tax and the amount needed. The tax shall be set to raise only the amount needed. Notice of the election, including the time and place of holding the election, shall be given as provided in section 357G.4. The vote shall be by ballot which shall state clearly the proposition to be voted upon and any qualified elector residing within the district at the time of the election may vote. It is not mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but the elections shall be conducted in accordance with chapter 49 where not in conflict with this chapter. Judges shall be appointed to serve without pay by the council from among the qualified electors of the district to be in charge of the election. The proposition is approved if sixty percent of those voting on the proposition vote in favor of it.

Sec. 9. NEW SECTION. 357G.9 TRUSTEES — TERM AND QUALIFICATION.

At the election, the names of up to three candidates for trustee shall be written in by the voters on blank ballots without formal nomination and the council shall appoint three from

among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees and their successors must be residents of the district and shall give bond in the amount required by the council, the premium of which shall be paid by the district. Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the council. The term of succeeding trustees shall be three years.

Sec. 10. NEW SECTION. 357G.10 TRUSTEES' POWERS.

The trustees may purchase, own, rent, or maintain emergency medical services apparatus or equipment within the state or outside the territorial jurisdiction and boundary limits of this state, provide housing for such apparatus and equipment, provide emergency medical service and facilities, and may certify for levy an annual tax as provided in section 357G.8. The trustees may purchase material, employ emergency medical service and other personnel, and may perform all other acts necessary to properly maintain and operate the district. The trustees may contract with any other city or county or public or private agency under chapter 28E for the purpose of providing emergency medical services under this chapter. The trustees are allowed necessary expenses in the discharge of their duties, but they shall not receive a salary.

Sec. 11. NEW SECTION. 357G.11 BONDS IN ANTICIPATION OF REVENUE.

A district may anticipate the collection of taxes by the levy authorized in this chapter, and to carry out the purposes of this chapter may issue bonds payable in not more than ten equal installments with the rate of interest not exceeding that permitted by chapter 74A. An indebtedness shall not be incurred under this chapter until authorized by an election. The election shall be held and notice given in the same manner as provided in section 357G.8, and the same sixty percent vote shall be necessary to authorize indebtedness. Both propositions may be submitted to the voters at the same election.

Sec. 12. NEW SECTION. 357G.12 DISSOLUTION OF DISTRICT.

Upon petition of thirty-five percent of the resident eligible electors, the council may dissolve a district and dispose of any remaining property, the proceeds of which shall first be applied against outstanding obligations and any balance shall be applied to tax credit of property owners of the district. The council shall continue to levy a tax after dissolution of a district, of not to exceed twenty-seven cents per thousand dollars of assessed value on all the taxable property of the district, until all outstanding obligations of the district are paid.

Sec. 13. NEW SECTION. 357G.13 ADDING PROPERTY TO DISTRICT.

Any property in an unincorporated area contiguous to the boundaries of an established district which is annexed by the city shall be included in the district. The tax levy for the next year shall be applied to the property and on the first day of the next fiscal year, the property shall become a part of the district.

Sec. 14. NEW SECTION. 357G.14 DETERMINATION OF FEE.

1. The owner of any property joining an established district shall pay to the trustees of the district an initial fee to be computed as follows:

a. The trustees shall first determine fair market value of all property and improvements owned by the district, less any indebtedness.

b. The council shall then determine the assessed value of all property in the district which is not assessed as agricultural land. This shall be divided into the value determined in paragraph "a".

c. The council shall determine the assessed value of the property of each landowner joining the established district which is not assessed as agricultural land.

d. The result obtained in paragraph "b" shall be multiplied by the result obtained in paragraph "c". The result shall be the initial fee to be charged each landowner.

2. The initial fees paid to the trustees shall be used to help defray the cost and maintenance of the district's emergency medical services.

Sec. 15. Section 384.12, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 18A. A tax to fund an emergency medical services district under chapter 357G.

Sec. 16. This Act is retroactively applicable to districts established on or after January 1, 1993.

Approved April 14, 1994

CHAPTER 1076

TARGETED BUSINESSES

H.F. 2403

AN ACT relating to direct purchasing from vendors for the purpose of attaining targeted small business procurement goals.

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

Section 1. Section 10A.104, subsection 8, Code Supplement 1993, is amended to read as follows:

8. Establish by rule standards and procedures for certifying that targeted small businesses are eligible to participate in the procurement set-aside program and that small businesses are eligible to participate in the construction procurement set-aside program established in sections 73.15 through 73.21. The procedure for determination of eligibility shall not include self-certification by a business. Rules and guidelines adopted pursuant to this subsection are subject to review and approval by the director of the department of management. The director shall maintain a current directory of targeted small businesses which have been certified pursuant to this subsection.

Sec. 2. Section 15.102, subsection 5, Code 1993, is amended to read as follows:

5. a. "Targeted small business" means a small business which is fifty-one percent or more owned, operated, and actively managed by one or more women, ~~or~~ minority persons, or persons with a disability provided the business meets all of the following requirements:

~~a.~~ (1) Is located in this state.

~~b.~~ (2) Is operated for profit.

~~c.~~ (3) Has an annual gross income of less than three million dollars computed as an average of the three preceding fiscal years.

b. As used in this subsection~~,~~:

(1) ~~"minority~~ "Minority person" means an individual who is a Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan native American.

(2) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual. "Disability" does not include any of the following:

(a) Homosexuality or bisexuality.

(b) Transvestitism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identify* disorders not resulting from physical impairments, or other sexual behavior disorders.

(c) Compulsive gambling, kleptomania, or pyromania.

(d) Psychoactive substance abuse disorders resulting from current illegal use of drugs.

*"identity" probably intended

(3) "Major life activity" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

Sec. 3. Section 15.241, unnumbered paragraphs 1, 2, and 4, Code 1993, are amended to read as follows:

A "self-employment loan program account" is established within the strategic investment fund created in section 15.313 to provide funding for the self-employment loan program which is to be conducted in coordination with the job training partnership program and other programs administered under section 15.108, subsection 6, paragraph "c". The department may contract with local community action agencies or other local entities in administering the program, and shall work with the department of employment services and the department of human services in developing the program. The department shall cooperate with the division of vocational rehabilitation under the department of education to implement a business development initiative for entrepreneurs with disabilities.

The self-employment loan program shall administer a low-interest loan program to provide loans to low-income persons and persons with disabilities for the purpose of establishing or expanding small business ventures. The terms of the loans shall be determined by the department, but shall not be in excess of ten thousand dollars to any single applicant or at a rate to exceed five percent simple interest per annum. The department shall maintain records of all loans approved and the effectiveness of those loans in establishing or expanding small business ventures.

Payments of interest, recaptures of awards, and repayments of moneys loaned under this program shall be deposited into the strategic investment fund. Receipts from loans or grants under the business development initiative for entrepreneurs with disabilities may be maintained in a separate account within the fund.

Sec. 4. Section 18.6, subsection 8, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The director shall establish rules providing that any state agency may, upon request, purchase directly from a vendor if the direct purchasing is as economical or more economical than purchasing through the department, or upon a showing that direct purchasing by the state agency would be in the best interests of the state due to an immediate or emergency need. The rules shall include a provision permitting a state agency to purchase directly from a vendor, on the agency's own authority, if the purchase will not exceed five thousand dollars and the purchase will contribute to the agency complying with or exceeding the targeted small business procurement goals under sections 73.15 through 73.21.

Sec. 5. Section 73.16, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Of the total value of anticipated procurements of goods and services under this subsection, an additional goal shall be established to procure at least forty percent from minority-owned businesses, and forty percent from female-owned businesses.

Sec. 6. ENTREPRENEURS WITH DISABILITIES. From the moneys appropriated for small business programs in House File 2415,* section 1, subsection 2, paragraph "b", if enacted, to the business development division of the department of economic development, $40,000 shall be used to match federal funds to design and implement a business development initiative for entrepreneurs with disabilities. The business development division shall develop a program to provide technical and financial assistance to help persons with disabilities to become self-sufficient and create additional employment opportunities by establishing or expanding small business ventures. The division shall enter into an interagency agreement with the division of vocational rehabilitation of the department of education to implement the program. The

*Chapter 1201 herein

purpose of the interagency agreement is to strengthen initial placements and long-term successes of individuals with disabilities through self-employment, by combining the business expertise of the department of economic development with the experience of the division of vocational rehabilitation of the department of education in working with people with disabilities. The business development division shall design the program to make the maximum amount of resources expended by the business development of the department of economic development eligible for federal reimbursement.

Approved April 14, 1994

CHAPTER 1077

SCREENING AND ASSESSMENT FOR NURSING FACILITY PLACEMENT

H.F. 582

AN ACT relating to the establishment of a screening and assessment pilot program to determine the appropriateness of community-based services for elders considering placement or residing in a nursing facility.

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

Section 1. PREADMISSION SCREENING AND ASSESSMENT PILOT PROGRAM.

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

a. "Assessment" means a face-to-face conference between a case management program assessor and the elder which includes an evaluation of physical health, cognitive and emotional status, activities of daily living, transportation needs, a support system, the physical environment, and the financial status of the elder.

b. "Case management program for elders" means a comprehensive system administered by the department as specified in this chapter.

c. "Department" means the department of elder affairs.

d. "Elder" means a person sixty-five years of age or older.

e. "Nursing facility" means a nursing facility as defined in section 135C.1.

f. "Screening" means an initial review to determine if a face-to-face comprehensive assessment by a case management program assessor is necessary prior to admission or following admission to a nursing facility.

2. Beginning July 1, 1994, and ending June 30, 1996, the department shall administer a preadmission screening and assessment pilot program for elders seeking admission to nursing facilities, in three to six counties in the state, which have existing case management programs for elders, in consultation with area agencies on the aging, service providers, and the peer review organization. The counties selected shall represent both rural and urban populations. Unless an elder is exempt from the preadmission screening and assessment pilot program pursuant to subsection 5 or 6, an elder shall not be admitted to a nursing facility in a participating county prior to completion of a preadmission screening and, if necessary, an assessment.

3. The department shall determine the appropriate agency to conduct the screening program.

a. The screening shall include but is not limited to a utilization review for the level of care needed and the identification of mental illness, mental retardation, and related mental health conditions of an elder.

b. The screening shall be conducted not more than three months prior to the application for admission of the elder to a nursing facility. If the screening of an elder has not been completed during the three-month period prior to the application for admission, the nursing facility shall request a screening prior to the admission of the elder.

c. During the screening process, the peer review organization shall identify elders with care needs who may be served through coordination of services in the community and shall refer these elders to the area agency on aging in the county of residence of the elder for a complete needs assessment.

4. A post-admission screening of elders in nursing facilities may be initiated based on any of the following criteria:

a. A rehabilitative placement shall be screened, periodically.

b. Residents with relatively low-level care needs, as identified in the existing peer review organization continued stay review process, shall be screened, periodically.

c. A member of the resident's family, the resident's physician, or a member of the nursing facility staff, may request screening.

5. If, following a screening, a determination of the need for an assessment is made, the case management program assessor shall perform an assessment of the elder, using a standard assessment tool approved by the department. Following the assessment and an interdisciplinary case conference, the case management staff shall explain the options available to the elder, the elder's family, and persons providing support services to the elder for the most appropriate care in the least restrictive environment. The elder, the elder's family, and persons providing support services to the elder, shall choose the care options to be provided to the elder.

6. If an elder's attending physician determines that an emergency placement of the elder in a nursing facility is necessary, a nursing facility may admit the elder prior to completion of a screening or assessment. Within three days following admission, the peer review organization shall provide for a screening and request an assessment if the screening indicates the need for an assessment.

7. The following elders are exempt from screening and assessment:

a. An elder transferring between nursing facilities, whether or not an intervening hospital stay takes place.

b. An elder admitted to a nursing facility prior to January 1, 1995.

c. An elder entering a nursing facility who has completed an assessment under the program within the three-month period prior to application for admission.

d. An elder admitted to a nursing facility directly from a hospital after receiving acute inpatient care at the hospital, unless the elder requires more than thirty days of nursing facility care, in which case the peer review organization shall conduct a screening within forty days of admission to the nursing facility.

e. An elder transferred within the same continuing care retirement community, as defined in section 523D.1, from a level of care or from a portion of the facility in which residents do not require nursing care, except on an emergency basis, to a level of care which is primarily nursing care or to a portion of the facility which is primarily engaged in providing nursing care.

8. The department shall submit an annual report to the governor and to the general assembly which provides an analysis of the pilot program.

Approved April 18, 1994

CHAPTER 1078

STATE FIRE MARSHAL

H.F. 2070

AN ACT relating to administrative activities by the department of public safety concerning the state fire marshal.

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

Section 1. Section 100.13, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

100.13 VIOLATIONS — ORDERS.

1. If a person has violated or is violating a provision of this chapter or a rule adopted pursuant to this chapter, the state fire marshal, the chief of any fire department, or the fire prevention officer of a fire department organized under chapter 400 may issue an order directing the person to desist in the practice which constitutes the violation and to take corrective action as necessary to ensure that the violation will cease. The order shall be in writing and shall specify a reasonable time by which the person shall comply with the order. The person to whom the order is issued may appeal the order as provided in chapter 17A. On appeal, the administrative law judge may affirm, modify, or vacate the order. Judicial review may be sought in accordance with chapter 17A.

2. Notwithstanding any other provision of law to the contrary, if the state fire marshal determines that an emergency exists respecting any matter affecting or likely to affect the public safety, the fire marshal may issue any order necessary to terminate the emergency without notice or hearing. An emergency order is binding and effective immediately, until or unless the order is modified, vacated, or stayed at an administrative hearing or by a district court.

Sec. 2. Section 100.14, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

100.14 PENALTIES — BURDEN OF PROOF.

At the request of the state fire marshal, the county attorney shall institute any legal proceedings on behalf of the state necessary to obtain compliance or enforce the penalty provisions of this chapter or rules or orders adopted or issued pursuant to this chapter, including, but not limited to, a legal action for injunctive relief. The county attorney or any other attorney acting on behalf of the chief of a fire department or a fire prevention officer may institute legal proceedings, including, but not limited to, a legal action for injunctive relief, to obtain compliance or enforce the penalty provisions or orders issued pursuant to section 100.13.

Sec. 3. Section 100.16, Code 1993, is amended to read as follows:

100.16 JUDICIAL REVIEW.

1. Judicial review of actions of the fire marshal may be sought in accordance with the terms of the Iowa administrative procedure Act pursuant to chapter 17A. ~~Notwithstanding the terms of said Act, petitions for judicial review may be filed in the district court of the county where such building is located.~~ If legal proceedings have been instituted pursuant to section 100.14, all related issues which could otherwise be raised in a proceeding for judicial review shall be raised in the legal proceedings instituted pursuant to section 100.14.

2. Upon judicial review of the fire marshal's action, if the court affirms the agency action, the court shall tax all court costs of the review proceeding against the appellant. However, if the court reverses, revokes, or annuls the fire marshal's action, the court shall tax all court costs of the review proceeding against the agency. If the fire marshal's action is modified or the matter is remanded to the agency for further proceedings, the court shall apportion the court costs within the discretion of the court.

Sec. 4. Section 100.18, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. The rules shall require the installation of smoke detectors in existing single-family rental units and multiple-unit residential buildings. Existing single-family dwelling units shall be

equipped with approved smoke detectors. A person who files for a homestead credit pursuant to chapter 425 shall certify that the single-family dwelling unit for which the credit is filed has a smoke detector installed in compliance with this section, or that one will be installed within thirty days of the date the filing for the credit is made. The state fire marshal shall adopt rules and establish appropriate procedures ~~for the distribution and filing of such certificates with the state fire marshal~~ to administer this subsection.

Sec. 5. Section 100.26, Code 1993, is amended to read as follows:

100.26 TIME FOR COMPLIANCE WITH ORDER — PENALTY.

~~When no~~ If a petition of review ~~as provided in section 100.14~~ has not been filed ~~or when the fire marshal on review~~ or the court on review has affirmed or modified an order for the removal, destruction, or repair of a building, or the removal of any of its contents, or the change of any of its conditions, the owner, lessee, or occupant shall comply with the order within thirty days after the delivery of the order or a copy of the order to the person, either personally or by certified letter to the last known address, or by service upon the person's appointed agent. Failure of the owner, lessee, or occupant to comply with the order shall subject the owner, lessee, or occupant to a penalty of ten dollars for each day of failure or neglect after the expiration of the period. The penalty shall be recovered in the name of the state and paid into the treasury of the political subdivision which issues the order or the treasurer of state if the order is issued by the state. If the owner, lessee, or occupant cannot reasonably comply with the order within thirty days and a good faith effort at compliance has been made within thirty days, the owner, lessee, or occupant shall not be subject to a penalty under this section. However, the penalty may be imposed on the person upon a failure to continue the good faith compliance with the order.

Sec. 6. Section 100.31, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Every school building with two or more classrooms shall have a warning system for fires of a type approved by the Underwriters' Laboratories and by the state fire marshal. ~~Said~~ The warning system shall be used only for fire drills or as a warning for emergency. Schools may modify the fire warning system for use as a tornado warning system or shall install a separate tornado warning system. Every school building shall also be equipped with ~~first-aid~~ portable fire extinguishers, with the type, size and number in accordance with National Fire Protection Association standards and approved by the state fire marshal.

Sec. 7. Section 103A.11, subsection 1, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

1. The commissioner shall adopt rules pursuant to chapter 17A which are necessary for the implementation of this chapter.

Sec. 8. Section 331.512, subsection 1, paragraph d, Code 1993, is amended by striking the paragraph.

Sec. 9. Sections 100.15, 100.17, 100.19, 100.23, and 100.27 through 100.29, Code 1993, are repealed.

Approved April 18, 1994

CHAPTER 1079

PLACEMENT OF CERTAIN PERSONS AT
IOWA MEDICAL AND CLASSIFICATION CENTER
H.F. 2241

AN ACT to permit placement of persons for whom criminal proceedings are suspended by reason of lack of mental capacity in the Iowa medical and classification center and providing for periodic review of the commitment to determine whether the persons have regained mental capacity.

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

Section 1. Section 812.4, Code 1993, is amended to read as follows:

812.4 CESSATION OF CRIMINAL PROSECUTION.

If, upon hearing conducted by the court, the accused is found to be incapacitated in the manner described in section 812.3, no further proceedings shall be taken under the complaint or indictment until the accused's capacity is restored, and, if the accused's release will endanger the public peace or safety, the court must order the accused committed to the custody of the department of human services or to the custody of the department of corrections for placement at the Iowa medical and classification center.

Sec. 2. Section 812.5, Code 1993, is amended to read as follows:

812.5 EFFECT OF RESTORATION OF MENTAL CAPACITY.

If the accused is committed to the department of human services or to the department of corrections for placement at the Iowa medical and classification center under section 812.4, after the expiration of a period not to exceed six months, the court shall upon hearing review the confinement and determine whether there is a substantial probability the accused will regain capacity within a reasonable time. If not, the state shall be directed to institute civil commitment proceedings. When it thereafter appears that the accused can effectively assist in the accused's defense, the department shall give notice to the sheriff and county attorney of the proper county of such fact, and the sheriff, without delay, shall receive and hold the accused in custody until the accused is brought to trial or judgment, as the case may be, or is legally discharged, the expense for conveying and returning the accused, or any other, to be paid in the first instance by the county from which the accused is sent, but such county may recover the same from another county or municipal body required to provide for or maintain the accused elsewhere, and the sheriff shall be allowed for the sheriff's services the same fees as are allowed for conveying persons to institutions under section 331.655.

Approved April 18, 1994.

CHAPTER 1080

FEDERAL HIGHWAY MONEYS TO GOVERNOR'S TRAFFIC SAFETY BUREAU
H.F. 2358

AN ACT relating to funding for the governor's traffic safety bureau and providing for a repeal.

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

Section 1. NEW SECTION. 80.26 GOVERNOR'S TRAFFIC SAFETY BUREAU — FUNDS.

The governor's traffic safety bureau is encouraged to explore funding opportunities for moneys received from the federal highway administration due to the state's failure to enact a mandatory helmet law pursuant to the federal Intermodal Surface Transportation Efficiency Act of 1991 to be used by the following entities for the following purposes:

1. To the department of public health to be allocated to emergency medical services associations for instruction of emergency medical care technicians in accident scene procedures and for up to twenty-five percent of the costs for one-time purchases of vehicles and other emergency medical equipment.

2. To the department of education to be allocated to school districts within the state for driver's education classes for additional highway safety and motorcycle training programs.

3. To be allocated to educational institutions to be used for programs on farm vehicle safety and extraction from farm machinery.

4. To the state department of transportation to be used for the Iowa operation lifesaver program to promote railroad crossing safety activities.

5. To county traffic safety councils for the development of comprehensive traffic safety programs.

6. To the department of public health to be used for adolescent substance abuse prevention.

7. To the state department of transportation to be allocated to the Iowa highway patrol, local police departments and county sheriff's offices for purchase of pen-based mobile computers to enhance the implementation of Iowa's mobile accident reporting system and to facilitate the development of additional computer-based enforcement reporting systems.

8. To the state department of transportation to be used to develop software to allow origination of uniform citations from computerized devices and for electronic communication of the record of the citation from the issuing agency to the court and electronic communication of the abstract of conviction from the court to the state department of transportation.

This section is repealed on October 1, 1996.

Approved April 18, 1994.

CHAPTER 1081

COALITION TO STUDY LAW ENFORCEMENT TRAINING

H.F. 2392

AN ACT to establish a study regarding appropriate training for peace officers relating to persons who are mentally ill.

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

Section 1. COALITION ON LAW ENFORCEMENT TRAINING. The office of attorney general shall form, effective July 1, 1994, a professional coalition for the training of law enforcement personnel to study the training necessary to provide peace officers with sufficient information to permit the officers to recognize the signs and symptoms of serious mental illness, as defined by mental health professionals, in persons who are detained or who are to be placed under arrest and to permit officers to determine what action may be appropriate when persons who are suffering from serious mental illness are encountered.

The coalition shall consist of representatives of the department of corrections, the Iowa police executive forum, the county attorneys association, the Iowa sheriffs association, the Iowa state association of counties, the police chiefs association, the department of human services, the Iowa psychiatric association, the community mental health centers, the Iowa law enforcement academy, the Iowa attorney general's office, and a representative from the comprehensive model mental illness and law enforcement-prescription for crisis intervention program.

The coalition shall meet as necessary, and at times agreed upon by the participants, and shall submit its findings in a report to the General Assembly by January 15, 1995.

Approved April 18, 1994

CHAPTER 1082

CHILD ABUSE INVESTIGATIONS

S.F. 2009

AN ACT relating to child abuse investigations by requiring communication between the department of human services and a physician who conducts an examination of a child who is alleged to be abused.

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

Section 1. Section 232.71, subsection 5, Code Supplement 1993, is amended to read as follows:

5. a. The department of human services may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the investigation upon the request of the department of human services. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child.

b. If the department refers a child to a physician for a physical examination, the department shall contact the physician concerning the examination within twenty-four hours of making the referral. If the physician who performs the examination upon referral by the department reasonably believes the child has been abused, the physician shall report to the department within twenty-four hours of performing the examination.

Approved April 19, 1994

CHAPTER 1083

EMPLOYMENT UNDER SCHOOL DISTRICT SHARING AGREEMENTS

S.F. 2087

AN ACT relating to employment under school district whole grade sharing agreements.

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

Section 1. Section 280.15, subsection 1, Code 1993, is amended to read as follows:

1. Two or more public school districts may jointly employ and share the services of any school personnel, or acquire and share the use of classrooms, laboratories, equipment and facilities. Classes made available to students in the manner provided in this section shall be considered as complying with the requirements of section 275.1 relating to the maintenance of kindergarten and twelve grades by a school district. If students attend classes in another school district under this section under an agreement that provides for whole grade sharing, the boards of directors of districts entering into these agreements shall provide for sharing the costs and expenses as provided in sections 282.10 through 282.12. ~~Sharing agreements shall provide that any person who is not an employee at the time an agreement is signed shall not be employed in any professional position, under the terms of the agreement, for which a current employee of any of the districts involved in the agreement holds an appropriate license, unless the professional position is an administrator position or the professional position is first offered to the current employee.~~ If a district that has entered into a whole grade sharing agreement determines that a need exists to hire additional employees because of the whole grade sharing agreement, the district shall determine the nature and number of the necessary new positions. The district terminating employees as a result of a whole grade sharing agreement shall notify any other district, which is a party to the agreement, of the names and addresses of those

terminated. Individuals who were employed by a district that entered into a whole grade sharing agreement and who were terminated as a result of the agreement shall be notified that the new positions exist and that they may apply for the new positions. The board shall offer the new position to an applicant from among those who were terminated as a result of the agreement if the applicant is licensed for the new position or, in the case of unlicensed personnel, is otherwise qualified. If two or more individuals from among those terminated as a result of the agreement apply for a single position, the applicant who is best qualified in the opinion of the board shall be offered the new position. However, the board is not required to offer a new position to applicants who were among those who were terminated as a result of the agreement beyond two school years. An employee who accrued benefits before a whole grade sharing agreement resulted in the employee's termination shall not, as a result of reemployment under this section, forfeit accrued vacation, accrued sick leave, longevity, completion of probationary status as defined by section 279.19, or salary or placement on a salary schedule based upon the employee's years of experience.

Approved April 19, 1994

CHAPTER 1084

COLLEGE EDUCATION FINANCING

S.F. 2199

AN ACT relating to college education financing through a provision for the state board of regents to issue bonds.

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

Section 1. Section 262A.6A, subsection 1, Code 1993, is amended to read as follows:

1. The board shall issue bonds ~~authorized under section 262A.4 by the Seventy-second General Assembly~~ in an amount not exceeding ~~nineteen million dollars~~ ; ~~and from the forty-one million three hundred thousand dollars authorized by 1990 Iowa Acts, chapter 1273, in an amount not exceeding fifteen million dollars;~~ fifty percent of the amount of bonds authorized pursuant to section 262A.4 by the Seventy-fifth General Assembly during the 1994 regular session* in the form of capital appreciation bonds as provided in this section rather than the form prescribed in sections 262A.5 and 262A.6. The capital appreciation bonds shall be designed to be marketed primarily to Iowans to facilitate savings for future higher education costs.

Approved April 19, 1994

*See Chapter 1195 herein

CHAPTER 1085

REGULATED TOXICS IN PACKAGING

S.F. 2205

AN ACT relating to regulated toxics in packaging.

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

Section 1. Section 455D.19, subsection 2, Code 1993, is amended by adding the following new paragraphs after paragraph a and relettering as necessary:

NEW PARAGRAPH. b. "Intentional introduction" means an act of deliberately utilizing a regulated metal in the formulation of a package or packaging component where its combined presence is desired in the final package or packaging component to provide a specific characteristic, appearance, or quality. Intentional introduction does not include the use of a regulated metal as a processing agent or intermediate to impart certain chemical or physical changes during manufacturing, if the incidental presence of a residue of the metal in the final package or packaging component is neither desired nor deliberate, and if the final package or packaging component is in compliance with subsection 5, paragraph "c". Intentional introduction also does not include the use of postconsumer recycled materials as feedstock for the manufacture of new packaging materials, if the recycled materials contain amounts of a regulated metal and if the new package or packaging component is in compliance with subsection 5, paragraph "c". "Regulated metal" means any metal regulated under this section.

NEW PARAGRAPH. c. "Incidental presence" means the presence of a regulated metal as an unintended or undesired ingredient of a package or packaging component.

Approved April 19, 1994

CHAPTER 1086

GRAIN DEALER LICENSES

S.F. 2016

AN ACT relating to grain dealer licenses, by providing for minimum financial requirements, and providing an effective date.

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

Section 1. Section 203.3, subsection 4, paragraph b, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A grain dealer shall submit a report to the department according to procedures required by the department, if the grain dealer provides a bond based in part on the number of bushels of unpaid grain purchased by the grain dealer, as provided in rules adopted by the department, in order to satisfy the current assets to current liabilities ratio requirement of this section. The report shall contain information required by the department, including the number of bushels of unpaid grain purchased by the grain dealer. The grain dealer shall submit the report not more than once each month. However, the department may require that a grain dealer submit a report on a more frequent basis, if the department has good cause.

Sec. 2. Section 203.3, subsection 4, paragraph c, Code 1993, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least one hundred percent of current liabilities or provide a ~~deficiency~~ bond ~~or an irrevocable letter of credit~~ under the following conditions:

(1) A grain dealer with current assets equal to at least fifty percent of current liabilities ~~may~~ shall provide a ~~deficiency~~ bond ~~or an irrevocable letter of credit~~ of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. ~~However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.~~ After the amount of the bond equals one million dollars, the grain dealer may elect to base the remainder of the amount of the bond on the number of bushels of unpaid grain being purchased by the grain dealer, as provided for by rules which shall be adopted by the department. The remaining amount shall equal two thousand dollars for each one thousand dollars of the highest amount of bushels of unpaid grain purchased by the grain dealer during each month.

(2) A grain dealer with current assets equal to less than fifty percent of current liabilities ~~may~~ shall provide a ~~deficiency~~ bond ~~or an irrevocable letter of credit~~ of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond ~~or irrevocable letter of credit~~ shall not be used for longer than thirty consecutive days in a twelve-month period.

Sec. 3. Section 203.3, subsection 5, paragraph b, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A grain dealer shall submit a report to the department according to procedures required by the department, if the grain dealer provides a bond based in part on the number of bushels of unpaid grain purchased by the grain dealer, as provided in rules adopted by the department, in order to satisfy the current assets to current liabilities ratio requirement of this section. The report shall contain information required by the department, including the number of bushels of unpaid grain purchased by the grain dealer. The grain dealer shall submit the report not more than once each month. However, the department may require that a grain dealer submit a report on a more frequent basis, if the department has good cause.

Sec. 4. Section 203.3, subsection 5, paragraph c, Code 1993, is amended to read as follows:

c. The grain dealer shall have and maintain current assets equal to at least one hundred percent of current liabilities or provide a ~~deficiency~~ bond ~~or an irrevocable letter of credit~~ under the following conditions:

(1) A grain dealer with current assets equal to at least fifty percent of current liabilities ~~may~~ shall provide a ~~deficiency~~ bond ~~or an irrevocable letter of credit~~ of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. ~~However, the bond or irrevocable letter of credit shall not be used for longer than six consecutive months in a twelve-month period.~~ After the amount of the bond equals one million dollars, the grain dealer may elect to base the remainder of the amount of the bond on the number of bushels of unpaid grain being purchased by the grain dealer, as provided for by rules which shall be adopted by the department. The remaining amount shall equal two thousand dollars for each one thousand dollars of the highest amount of bushels of unpaid grain purchased by the grain dealer during each month.

(2) A grain dealer with current assets equal to less than fifty percent of current liabilities ~~may~~ shall provide a ~~deficiency~~ bond ~~or an irrevocable letter of credit~~ of two thousand dollars for each one thousand dollars or fraction of one thousand dollars of current assets that the grain dealer is lacking to meet the minimum requirement. However, the bond ~~or irrevocable letter of credit~~ shall not be used for longer than thirty consecutive days in a twelve-month period.

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

Approved April 19, 1994

CHAPTER 1087

AGRICULTURAL AND OTHER MOTOR VEHICLES – MISCELLANEOUS PROVISIONS

S.F. 2080

AN ACT relating to agricultural and other motor vehicles, by defining special mobile equipment and exempting oversized vehicles from certain regulations.

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

Section 1. Section 321.1, subsection 75, Code Supplement 1993, is amended to read as follows:

75. "Special mobile equipment" means every vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, ~~but not~~ including road construction or maintenance machinery and ditch-digging apparatus. This description does not exclude other vehicles which are within the general terms of this subsection.

Sec. 2. Section 321.423, subsection 6, Code 1993, is amended to read as follows:

6. AMBER FLASHING LIGHT. A farm tractor, farm tractor with towed equipment, self-propelled implement of husbandry, road construction or maintenance vehicle, road grader, or other vehicle principally designed for use off the highway which, when operated on a primary or secondary road, is operated at a speed of twenty-five miles an hour or less, shall be equipped with and display an amber flashing light visible from the rear at any time from sunset to sunrise. If the amber flashing light is obstructed by the towed equipment, the towed equipment shall also be equipped with and display an amber flashing light as required under this subsection. All vehicles specified in this subsection which are manufactured for sale or sold in this state shall be equipped with an amber flashing light. The type, number, dimensions, and method of mounting of the lights shall be determined by the director. The director, when approving the light, shall be guided as far as practicable by the standards of the American society of agricultural engineers.

Sec. 3. Section 321.453, Code 1993, is amended to read as follows:

321.453 EXCEPTIONS.

The provisions of this chapter governing size, weight, and load, and the permit requirements of chapter 321E do not apply to fire apparatus, to road maintenance equipment owned by or under lease to any state or local authority, or to implements of husbandry temporarily moved upon a highway, or to implements moved from farm site to farm site or between the retail seller and a farm purchaser within a one hundred mile radius from the retail seller's place of business, or to indivisible implements of husbandry temporarily moved between the place of manufacture and a retail seller or a farm purchaser, or implements received and moved by a retail seller of implements of husbandry in exchange for an implement purchased, or implements of husbandry moved for repairs, except on any part of the interstate highway system, ~~or to a vehicle operating under the terms of a special permit issued as provided in chapter 321E~~. A vehicle exempted from the permit requirements under this section shall be equipped with an amber flashing light under section 321.423, shall be equipped with warning flags on that portion of the vehicle which protrudes into oncoming traffic, and shall only operate from thirty minutes prior to sunrise to thirty minutes following sunset.

Sec. 4. Section 321.454, subsection 1, Code 1993, is amended to read as follows:

1. The total outside width of any vehicle or the load ~~thereon~~ on the vehicle shall not exceed eight feet except that a motor home, commercial motor vehicle, motor truck or trailer hauling grain or livestock, travel trailer, fifth-wheel travel trailer, or bus having a total outside width not exceeding eight feet six inches, exclusive of safety equipment, is exempt from the permit requirements of chapter 321E and may be operated on the public highways of the state. However, if hay, straw or stover moved on any implement of husbandry and the total width of load of the implement of husbandry exceeds eight feet in width, the implement of husbandry is not subject to the permit requirements of chapter 321E. If hay, straw or stover is moved on any other vehicle subject to registration, the moves are subject to the permit

requirements for transporting loads exceeding eight feet in width as required under chapter 321E. The vehicle width limitations imposed by this subsection only apply to the public highways of the state not subject to the width limitations imposed under subsection 2.

Sec. 5. Section 321.454, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 6. Section 321.457, subsection 2, paragraph h, Code Supplement 1993, is amended by striking the paragraph.

Sec. 7. Section 321.457, subsection 3, Code Supplement 1993, is amended to read as follows:

3. The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state ~~which are designated by the transportation commission~~ shall be as follows:

a. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of fifty-three feet when operating in a truck tractor-semitrailer combination.

b. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of twenty-eight feet six inches when operating in a truck tractor-semitrailer-trailer combination or truck tractor-semitrailer-semitrailer combination. When the semitrailers in a truck tractor-semitrailer-semitrailer combination are connected by a rigid frame extension including a fifth-wheel connection point attached to the rear frame of the first semitrailer, the length of the frame extension shall not be included when determining the overall length of the first semitrailer.

c. Power units designed to carry cargo, when used in combination with a trailer or semitrailer shall not exceed sixty-five feet in overall length for the combination.

~~d. In a combination of vehicles used principally for hauling livestock or a stinger-steered automobile transporter operating under this subsection and section 321.454, subsection 2, the combination of vehicles used principally for hauling livestock or the stinger-steered automobile transporter may depart from the designated highway system by the most direct route to points of pickup and delivery. Vehicles operating under this paragraph are not exempt from posted size and weight restrictions on highway structures.~~

e d. A stinger-steered automobile transporter shall not have an overall length exceeding seventy-five feet, except that the load may extend up to three feet beyond the front bumper and up to four feet beyond the rear bumper.

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

~~The commission shall adopt rules to designate the highways. The rules adopted by the department under this paragraph are exempt from chapter 17A, the Iowa administrative procedure Act.~~

Sec. 8. Section 321.465, unnumbered paragraph 2, Code 1993, is amended to read as follows:

If an officer upon weighing a vehicle and load determines that the weight is unlawful, the officer may require the driver to stop the vehicle in a suitable place until such portion of the load is removed as may be necessary to reduce the gross weight of the vehicle to the limit as permitted under this chapter. All material so unloaded shall be cared for by the owner or operator of the vehicle at the risk of the owner or operator. The owner or operator of an overweight vehicle, designed to ~~compact and~~ transport solid waste and domiciled within the state, which is transporting solid waste, shall not be required to unload any portion of the load, if the load is indivisible, in a place other than a facility which is permitted to handle solid waste disposal, processing, or recycling. For purposes of this section "solid waste" means waste which is acceptable at a local sanitary landfill and the solid waste ~~which has been compacted~~ shall be considered to be an indivisible load.

Sec. 9. Section 321E.1, Code 1993, is amended to read as follows:

321E.1 PERMITS BY DEPARTMENT AND LOCAL AUTHORITIES.

The department and local authorities may in their discretion and upon application and with good cause being shown issue permits for the movement of construction machinery or asphalt repavers being temporarily moved on streets, roads or highways and for vehicles with indivisible

loads which exceed the maximum dimensions and weights specified in sections 321.452 to 321.466, but not to exceed the limitations imposed in sections 321E.1 to 321E.15 except as provided in sections 321E.29 and 321E.30. Vehicles permitted to transport indivisible loads may exceed the width and length limitations specified in sections 321.454 and 321.457 for the purpose of picking up an indivisible load or returning from delivery of the indivisible load. Permits issued may be single-trip permits or annual permits. Permits shall be in writing and shall be carried in the cab of the vehicle for which the permit has been issued and shall be available for inspection at all times. The vehicle and load for which the permit has been issued shall be open to inspection by a peace officer or an authorized agent of a permit granting authority. When in the judgment of the issuing ~~local~~ authority in cities and counties the movement of a vehicle with an indivisible load or construction machinery which exceeds the maximum dimensions and weights will be unduly hazardous to public safety or will cause undue damage to streets, avenues, boulevards, thoroughfares, highways, curbs, sidewalks, trees, or other public or private property, the permit shall be denied and the reasons for denial endorsed on the application. Permits ~~issued by local authorities~~ shall designate the days when and routes upon which loads and construction machinery may be moved within ~~the~~ a county on other than primary roads.

Sec. 10. Section 321E.1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Local authorities may allow persons requesting permits under this chapter to do so by means of a telephone or facsimile machine, authorizing payment for the permits to be made upon receipt of an invoice sent to the persons by the local authorities.

Sec. 11. Section 321E.2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. At the request of a local authority, the department shall issue annual and single-trip permits that are under the jurisdiction of the local authority.

Sec. 12. Section 321E.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Subject to the discretion and judgment provided for in section 321E.1, single-trip permits, which may include a round-trip to and from a job or delivery site, shall be issued in accordance with the following provisions:

Sec. 13. Section 321E.11, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Movements by permit in accordance with this chapter shall be permitted only during the hours from sunrise to sunset unless ~~it is established by~~ the issuing authority determines that the movement can be better accomplished at another period of time because of traffic volume conditions or the vehicle subject to the permit has an overall length not to exceed one hundred feet, an overall width not to exceed eleven feet, and an overall height not to exceed fourteen feet, four inches, and the permit requires the vehicle to operate only on the designated highway system. Additional safety lighting and escorts may be required for movement at night.

Sec. 14. 1991 Iowa Acts, chapter 127, section 2, is amended to read as follows:

SEC. 2. Section 1 of this Act is repealed July 1, ~~1994~~ 1996. On that date the Code editor shall return the language in section 1 of this Act to the language appearing in the 1991 Code.

Approved April 19, 1994

CHAPTER 1088

FUNDING OF GIFTED AND TALENTED PROGRAMS

S.F. 2201

AN ACT relating to funding of gifted and talented programs.

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

Section 1. Section 257.42, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department may request that the staff of the auditor of state conduct an independent program audit to verify that the gifted and talented programs funded by additional allowable growth conform to a district's program plans.

Sec. 2. Section 257.45, Code 1993, is amended to read as follows:

257.45 SUBMISSION OF PROGRAM PLANS.

1. The board of directors of a school district requesting to use additional allowable growth for gifted and talented children programs shall submit applications for approval for the programs to the department not later than November 1 preceding the fiscal year during which the program will be offered. The board shall also submit a copy of the program plans to the gifted and talented children advisory council, if an advisory council has been established. The department shall review the program plans and shall prior to January 15 either grant approval for the program or return the request for approval with comments of the department included. Any unapproved request for a program may be resubmitted with modifications to the department not later than ~~February 1~~ a date established by the department. Not later than February 15 the department shall notify the department of management and the school budget review committee of the names of the school districts for which gifted and talented children programs using additional allowable growth for funding have been approved and the approved budget of each program listed separately for each school district having an approved program.

2. The department of education may waive the November 1 deadline, if the department finds that the school district applying for approval of gifted and talented programs missed the deadline for good cause. The department shall adopt rules defining good cause for purposes of this section.

Sec. 3. Section 257.46, Code 1993, is amended to read as follows:

257.46 FUNDING.

The budget of an approved gifted and talented children program for a school district, after subtracting funds received from other sources for that purpose, shall be funded annually on a basis of one-fourth or more from the district cost of the school district and up to three-fourths by an increase in allowable growth as defined in section 257.8. The approved budget for a gifted and talented children program shall not exceed an amount equal to one and ~~two tenths~~ twenty-four-hundredths percent of the district cost per pupil of the district for the base year multiplied by the budget enrollment of the district for the budget year. Annually, the department of management shall establish a modified allowable growth for each such district equal to the difference between the approved budget for the gifted and talented children program for that district and the sum of the amount funded from the district cost of the school district plus funds received from other sources.

If any portion of the gifted and talented program budget remains unexpended at the end of the budget year, the part of the remainder equal to the proportion of the original budget which was funded by an increase in allowable growth, as defined in section 257.8, shall be carried over to the subsequent budget year and added to the gifted and talented program budget for that year.

Approved April 19, 1994

CHAPTER 1089

AREA EDUCATION AGENCY PROPERTY TRANSACTIONS

S.F. 2231

AN ACT relating to the sale, lease, or disposal of property by area education agencies and providing area education agencies with certain exemptions for a real property transaction between an area education agency and a school district if the real property is within the jurisdiction of both the grantee and the grantor and providing an effective date.

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

Section 1. Section 273.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Be authorized to sell, lease, or dispose of, in whole or in part, property belonging to the area education agency. Before the area education agency may sell property belonging to the agency, the board of directors shall comply with the requirements set forth in sections 297.23 and 297.24. Before the board of directors of an area education agency may lease property belonging to the agency, the board shall obtain the approval of the director of the department of education.

Sec. 2. Section 297.22, subsection 1, unnumbered paragraph 4, Code 1993, is amended to read as follows:

The board of directors of a school district may sell, lease, exchange, give, or grant, and accept any interest in real property to, with, or from a county, municipal corporation, school district, ~~or~~ township, or area education agency if the real property is within the jurisdiction of both the grantor and grantee. In this case sections 297.15 to 297.20, sections 297.23 and 297.24, and appraisal requirements of this section do not apply to the transaction.

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

Approved April 19, 1994

CHAPTER 1090

REGISTRATION AND USE OF MARKS

S.F. 2232

AN ACT relating to the registration and use of marks, including trademarks and service marks, and providing for fees.

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

Section 1. Section 548.1, Code 1993, is amended to read as follows:

548.1 DEFINITIONS.

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

1. "Abandoned" means the occurrence of any of the following in relation to a mark:

a. The use of the mark has been discontinued with intent not to resume such use. Nonuse for two consecutive years shall constitute prima facie evidence of abandonment.

b. A course of conduct of the owner of the mark, including acts of omission as well as commission, causes the mark to lose its significance as a mark.

~~1~~ 2. "Applicant" means a person filing an application for registration of a mark under this chapter, and the person's legal representative, successor, or assignee.

3. "Dilution" means the lessening of the capacity of a mark to identify and distinguish goods or services, regardless of the presence or absence of any of the following:

a. Competition between parties.

b. Likelihood of confusion, mistake, or deception.

2 4. "Mark" means a ~~word, name, symbol, device, or any combination of the foregoing in any form or arrangement used as a certification mark, collective mark, service mark, or trademark~~ trademark or service mark, entitled to registration under this chapter, whether registered or not.

~~a. "Certification mark" means a mark used in connection with the goods or services of a person other than the certifier to indicate geographic origin, material, mode of manufacture, quality, accuracy, or other characteristics of the goods or services, or to indicate that the work or labor on the goods or services was performed by members of a union or other organization.~~

~~b. "Collective mark" means a mark used by members of a co-operative, association, or other collective group or organization to identify goods or services and distinguish them from those of others, or to indicate membership in the collective group or organization.~~

c 5. "Service mark" means a ~~mark~~ word, name, symbol, or device or any combination of a word, name, symbol, or device, used by a person, to identify services and to distinguish ~~them from~~ the services of ~~others~~ that person, including a unique service, from the services of others, and to indicate the source of the services, even if that source is unknown. Titles, character names used by a person, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of a sponsor.

~~d~~ 6. ~~"Trade-mark"~~ "Trademark" means a ~~mark used by a person to identify goods and to distinguish them from the goods of others~~ word, name, symbol, or device or any combination of a word, name, symbol, or device, used by a person to identify and distinguish the goods of that person, including a unique product, from products manufactured and sold by others, and to indicate the source of the goods, even if that source is unknown.

~~3~~ 7. "Person" ~~means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity~~ and any other word or term used to designate the applicant or other party entitled to a benefit or privilege or rendered liable under this chapter includes a juristic person as well as a natural person. The term "juristic person" includes a firm, partnership, corporation, union, association, or other organization capable of suing and being sued in a court of law.

4 8. "Registrant" means a person ~~issued a~~ to whom the registration of a mark under this chapter is issued, and the ~~person's~~ legal representative, successor, or assignee of such person.

9. "Secretary" means the secretary of state or the designee of the secretary charged with the administration of this chapter.

~~5~~ 10. "Trade name" means a ~~word, name, symbol, device, or any combination of the foregoing in any form or arrangement~~ name used by a person to identify ~~the person's~~ a business, or vocation, ~~or occupation, and distinguish it from others~~ of such person.

~~6~~ 11. "Use" means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For the purposes of this chapter, a mark shall be deemed to be in use under any of the following circumstances:

a. ~~Placing a mark~~ On goods sold or transported in commerce when the mark is placed in any manner on the goods or containers or associated displays, or on affixed tags or labels, ~~and selling or otherwise distributing the goods~~ in this state or if the nature of the goods makes the placement on the goods or containers impracticable, on documents associated with the goods or their sale.

b. ~~Displaying a mark in connection with the sale or advertising of services rendered.~~ On services when the mark is used or displayed in the sale or advertising of services and the services are rendered in this state.

Sec. 2. Section 548.2, Code 1993, is amended to read as follows:

548.2 REGISTRABILITY.

~~1.~~ A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be registered if ~~it~~ the mark meets any of the following criteria:

~~a~~ 1. Consists of or comprises immoral, deceptive, or scandalous matter~~, or~~.

~~b~~ 2. Consists of or comprises matter which may disparage, bring into contempt or disrepute, or falsely suggest a connection with persons, living or dead, institutions, beliefs, or national symbols, or bring them into contempt, or disrepute.

~~c~~ 3. Consists of or comprises the flag, or coat of arms, or other insignia of the United States, or of any state or municipality, or of any foreign nation, or any simulation thereof~~, or~~.

~~d~~ 4. Consists of, or comprises the name, signature, or portrait ~~of any~~ identifying a particular living individual, except ~~with~~ by the individual's written consent~~, or~~.

~~e~~ 5. Consists of a mark which is one of the following:

~~(1)~~ a. When ~~applied to~~ used on or in connection with the goods or services of the applicant, is merely descriptive or deceptively misdescriptive of ~~them~~ the goods or services.

~~(2)~~ b. When ~~applied to~~ used on or in connection with the goods or services of the applicant, is primarily geographically descriptive or geographically misdescriptive of ~~them~~ the goods or services.

~~(3)~~ c. Is primarily merely a surname.

This ~~paragraph "e"~~ subsection 5 does not prevent the registration of a mark used ~~in this state~~ by the applicant which has become distinctive of the applicant's goods or services. The secretary ~~of state~~ may accept as evidence that the mark has become distinctive, ~~as applied to~~ on or in connection with the applicant's goods or services, proof of continuous use thereof as a mark by the applicant in this state ~~or elsewhere~~ for the five years ~~next preceding~~ before the date ~~of the filing of the application for registration, or~~ on which the claim for distinctiveness is made.

~~f~~ 6. ~~Resembles~~ Consists of or comprises a mark which so resembles a mark registered in this state or a mark or trade name previously used ~~in this state~~ by another and not abandoned, so as to be likely, when ~~applied to~~ used on or in connection with the goods or services of the applicant, to cause confusion~~,~~ or mistake, or ~~deception of purchasers~~ to deceive.

~~2. Judicial review of actions of the secretary of state may be sought in accordance with the terms of the Iowa administrative procedure Act.~~

Sec. 3. Section 548.3, Code 1993, is amended to read as follows:

548.3 APPLICATION FOR REGISTRATION.

Subject to the limitations set forth in this chapter, ~~any~~ a person who ~~has previously adopted and used~~ uses a mark ~~in this state~~ may file in the office of the secretary ~~of state~~, in the manner ~~prescribed by~~ which will comply with the requirements of the secretary ~~of state~~, ~~duplicate originals of~~ an application for the registration of ~~the~~ that mark~~.~~ ~~The application shall include~~ setting forth, but not ~~be~~ limited to, all of the following information:

1. The name and business address of the ~~applicant~~, person applying for registration; and if a corporation, the state of incorporation, or if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the secretary.

2. The goods or services on or in connection with which the mark is in use, the mode or manner in which the mark is used on or in connection with those goods or services, and the class ~~or classes~~ in which such goods or services fall, as described in ~~regulations promulgated~~ rules adopted by the secretary ~~of state~~.

3. The date on which the mark was first used anywhere by the applicant or the applicant's predecessor in interest~~, and the date on which it was first used in this state~~.

4. A statement that the applicant is the owner of the mark ~~in this state~~, that the mark is in use, and that, to the knowledge of the person verifying the application, no other person has registered, either federally or in this state, or has the right to use ~~a~~ such mark ~~in this state which purchasers would be likely to confuse or mistake for the applicant's mark~~ either in the identical form or in such resemblance to the form as to be likely, when applied to the goods or services of such other person, to cause confusion or mistake, or to deceive.

~~5.~~ The ~~signature and verification of~~ secretary may also require a statement as to whether an application to register the mark, or portions or a composite of the mark, has been filed by the applicant or a predecessor in interest in the United States patent and trademark office;

and if so, the applicant shall provide full particulars with respect to the filing including the filing date and serial number of each application, the status of the application and if any application was finally refused registration or has otherwise not resulted in a registration, the reasons therefore.

The secretary may also require that a drawing of the mark, complying with such requirements as the secretary may specify, accompany the application.

The application shall be signed and verified by oath, affirmation, or declaration subject to perjury laws by the applicant~~, a specimen or facsimile of the mark illustrating its present mode of use, and a filing fee of ten dollars for each class of goods or services for which registration is sought~~ or by a member of the firm or an officer of the corporation or association applying.

The application shall be accompanied by three specimens showing the mark as actually used.

The application shall be accompanied by the application fee payable to the secretary.

Sec. 4. NEW SECTION. 548.3A FILING OF APPLICATIONS.

1. Upon the filing of an application for registration and payment of the application fee, the secretary may cause the application to be examined for conformity with this chapter.

2. The applicant shall provide any additional pertinent information requested by the secretary including a description of a design mark and may make, or authorize the secretary to make, such amendments to the application as may be reasonably requested by the secretary or deemed by the applicant to be advisable to respond to any rejection or objection.

3. The secretary may require the applicant to disclaim an unregisterable component of a mark otherwise registerable, and an applicant may voluntarily disclaim a component of a mark sought to be registered. A disclaimer shall not prejudice or affect the applicant's or registrant's rights existing at or after the time of disclaimer arising in the disclaimed matter, or the applicant's or registrant's rights of registration on another application if the disclaimed matter is or becomes distinctive of the applicant's or registrant's goods or services.

4. Amendments may be made by the secretary upon the application submitted by the applicant upon the applicant's agreement, or the secretary may require a new application to be submitted.

5. If the applicant is found not to be entitled to registration, the secretary shall advise the applicant thereof and of the reasons therefore. The applicant shall have a reasonable period of time specified by the secretary in which to reply or to amend the application, in which event the application shall be reexamined. This procedure may be repeated until the secretary finally refuses registration of the mark or the applicant fails to reply or amend within the specified period, whereupon the application shall be deemed to have been abandoned.

6. If the secretary finally refuses registration of the mark, the applicant may seek judicial review of the refusal in accordance with chapter 17A.

7. If the secretary is concurrently processing applications seeking registration of the same or confusingly similar marks for the same or related goods or services, the secretary shall grant priority to the applications in order of filing. If an application filed earlier is granted a registration, a later application shall be rejected. Any rejected applicant may bring an action for cancellation of the registration upon grounds of prior or superior rights to the mark, in accordance with the provisions of section 548.7.

Sec. 5. Section 548.4, Code 1993, is amended to read as follows:

548.4 CERTIFICATE OF REGISTRATION.

~~The~~ Upon compliance by the applicant with the requirements of this chapter, the secretary ~~of state~~ shall ~~issue~~ cause a certificate of registration to be issued and delivered to the applicant ~~upon compliance with the requirements of this chapter~~. The certificate of registration shall be issued ~~over~~ under the signature and seal of the secretary ~~of state or the secretary's designee, bear the date of registration, and be affixed to a duplicate original application or a copy~~ and shall show the name and business address and, if a corporation, the state of incorporation, or if a partnership, the state in which the partnership is organized and the names of the general partners, as specified by the secretary, of the person claiming ownership of the

mark, the date claimed for the first use of the mark anywhere and the date claimed for the first use of the mark in this state, the class of goods or services and a description of the goods or services on or in connection with which the mark is used, a reproduction of the mark, the registration date and the term of the registration. ~~A duplicate original application shall be retained by the secretary of state with respect to each registered mark. The retained duplicate original application or a copy shall be available for public examination.~~

~~A certificate of registration by the secretary of state, affixed to a duplicate original application or to a copy, shall be prima facie evidence of the validity of registration and of the registrant's right to use the mark throughout this state in the manner described in the certificate of registration.~~

A certificate of registration issued by the secretary under this section or a copy thereof duly certified by the secretary shall be admissible in evidence as competent and sufficient proof of the registration of such mark in an action or judicial proceeding in any court in this state.

Sec. 6. Section 548.5, Code 1993, is amended to read as follows:

548.5 DURATION AND RENEWAL.

~~Registration~~ A registration of a mark under this chapter shall be effective for a term of ~~ten~~ five years ~~and~~ from the date of registration and, upon application filed within six months prior to the expiration of the term, in a manner complying with the requirements of the secretary, the registration may be renewed for ~~successive ten-year periods~~ a like term from the end of the expiring term. A renewal fee ~~of ten dollars~~ payable to the secretary shall accompany an application for renewal of registration. ~~Application for renewal shall be made within six months prior to the expiration of the registration on a form furnished by the secretary of state and shall include a verified statement that the mark is still in use in this state.~~

~~The secretary of state shall notify a registrant of the pending expiration of the registrant's registration. However, the failure of a registrant to receive due notice from the secretary of state shall not prevent expiration of a registration.~~

~~The term of any registration in force on the date on which this chapter becomes effective shall not be affected by this chapter, but any registration in force on said date can only be renewed under this chapter.~~ A registration may be renewed for successive periods of five years in like manner. A registration in force on the date on which this chapter shall become effective shall continue in full force and effect for the unexpired term thereof and may be renewed by filing an application for renewal with the secretary complying with the requirements of the secretary and paying the renewal fee within six months prior to the expiration of the registration.

All applicants for renewal under this chapter, whether of registration made under this chapter or of registrations effected under any prior statute, shall include a verified statement that the mark has been and is still in use and include a specimen showing actual use of the mark on or in connection with the goods or services.

Sec. 7. Section 548.6, Code 1993, is amended to read as follows:

548.6 ~~ASSIGNMENT~~ ASSIGNMENTS, CHANGES OF NAME, AND OTHER INSTRUMENTS.

1. ~~Any~~ A mark ~~registered under this chapter shall be~~ and its registration under this chapter is assignable with the good will of the business in which the mark is used or with that part of the good will of the business connected with the use of and symbolized by the mark. ~~A mark connected with a part of the good will of a business can be assigned with that part of the good will of the business.~~ Assignment ~~of a registration can only be effected by filing duplicate originals of an assignment, signed by the registrant,~~ shall be by a duly executed written instrument which may be recorded with the secretary ~~of state together with a filing fee of three dollars. After filing the assignment, the secretary of state~~ upon the payment of a recording fee to the secretary, who, upon recording of the assignment shall issue ~~to~~ a new certificate in the name of the assignee~~,~~ for the remainder of the term of the assigned registration~~, a new certificate attached to one of the duplicate originals~~ or of the last renewal of the registration. An

assignment of a registration under this chapter shall be void as against any subsequent purchase for valuable consideration without notice, unless the assignment is recorded with the secretary within three months after the date of the assignment or prior to such subsequent purchase.

2. A registrant or applicant effecting a change of the name of the person to whom the mark was issued or for whom an application was filed may record a certificate of change of name of the registrant or applicant with the secretary upon the payment of the recording fee. The secretary may issue a certificate of registration of an assigned application in the name of the assignee. The secretary may issue in the name of the assignee, a new certificate or registration for the remainder of the term of the registration or last renewal of the registration.

3. Other instruments which relate to a mark registered or application pending pursuant to this chapter, such as, by way of example, licenses, security interests, or mortgages, may be recorded in the discretion of the secretary, if such instrument is in writing and duly executed.

4. Acknowledgement shall be prima facie evidence of the execution of an assignment or other instrument and, when recorded by the secretary, the record shall be prima facie evidence of execution.

5. A photocopy of any instrument referred to in subsections 1 through 3, shall be accepted for recording if it is certified by any of the parties to the registration, or their successors, to be a true and correct copy of the original.

Sec. 8. NEW SECTION. 548.6A RECORDS.

The secretary shall keep for public examination a record of all marks registered or renewed under this chapter, as well as a record of all documents recorded pursuant to section 548.6.

Sec. 9. Section 548.7, Code 1993, is amended to read as follows:

548.7 CANCELLATION.

The secretary ~~of state~~ shall cancel from the register, in whole or in part, any of the following:

1. ~~Any registration under a prior law which has expired without being renewed under this chapter.~~

~~2.~~ ~~Any~~ A registration concerning which the secretary ~~of state~~ receives a voluntary request for cancellation from the registrant or the assignee of record.

~~3~~ 2. ~~Any~~ A registration granted under this chapter and not renewed in accordance with ~~its provisions~~ this chapter.

~~4~~ 3. ~~Any~~ A registration concerning which a district court~~, in an action involving the registration and from which no appeal is or can be taken,~~ finds any of the following:

a. That the registered mark has been abandoned~~, or~~.

b. That the registrant is not the owner of the mark~~, or~~.

c. That the registration was granted ~~contrary to the provisions of this chapter, or~~ improperly.

d. That the registration was obtained fraudulently~~, or~~.

e. That the ~~registered~~ mark has become ~~incapable of serving as a mark, or~~ the generic name for the goods or services, or a portion of the goods or services, for which the mark has been registered.

f. That the registered mark is so similar ~~to a mark registered~~, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States patent and trademark office ~~by another party to the litigation and not abandoned prior to the date of first use by the registrant under this chapter as to be likely to cause confusion, mistake, or deception of purchasers. However, registration under this chapter shall not be canceled if the registrant under this chapter proves~~ prior to the date of the filing of the application for registration by the registrant under this chapter, and not abandoned. However, if the registrant proves that the registrant ~~has~~ is the owner of a concurrent registration ~~for the~~ of a mark in the United States patent and trademark office ~~for~~ covering an area including this state, the registration under this chapter shall not be canceled for such area of the state.

5. ~~Any~~ A registration ~~that a district court, from which no appeal is or can be taken, orders~~ ordered canceled by a court on any ground.

Sec. 10. Section 548.8, Code 1993, is amended to read as follows:

548.8 CLASSIFICATION.

The secretary ~~of state~~ shall by rule establish a classification of goods and services for convenience in the administration of this chapter ~~which shall~~, but not limit ~~an~~ or extend the applicant's or registrant's rights ~~except as expressly provided by this chapter~~, and a single application for registration of a mark may include any or all goods upon which, or services with which, the mark is actually being used indicating the appropriate class or classes of goods or services. If a single application includes goods or services which fall within multiple classes, the secretary may require payment of a fee for each class. To the extent practical, the classification of goods and services should conform to the classification adopted by the United States patent and trademark office.

Sec. 11. Section 548.9, Code 1993, is amended to read as follows:

548.9 FRAUDULENT REGISTRATION.

~~Any~~ A person who, either on the person's own behalf or on behalf of any other person, ~~shall procure~~ procures the filing or registration of ~~any~~ a mark in the office of the secretary under this chapter by knowingly making any false or fraudulent representation or declaration, orally or in writing, or by any other fraudulent means is liable for the damages ~~caused by the fraudulent~~ sustained in consequence of the filing or registration ~~and in an action to recover these damages the court shall order cancellation of the fraudulently obtained registration~~ to be recovered by or on behalf of the party injured in district court.

Sec. 12. Section 548.10, Code 1993, is amended to read as follows:

548.10 INFRINGEMENT.

~~Any person who~~ Subject to section 548.11B, a person shall not do any of the following:

1. Use, without the consent of the registrant, ~~uses~~ any reproduction, counterfeit, copy, or colorable imitation of a mark registered under this chapter ~~in a manner which~~ in connection with the sale, distribution, offering for sale, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or mistake, or ~~deception~~ to deceive as to the source of origin of ~~purchasers; or reproduces, counterfeits, copies, or colorably imitates~~ such goods or services.

2. Reproduce, counterfeit, copy, or colorably imitate any ~~registered~~ such mark and ~~applies~~ apply such reproduction, counterfeit, copy, or colorable imitation to labels, signs, prints, packages, wrappers, receptacles, or advertisements intended to be used ~~in a manner which is likely to cause confusion, mistake, or deception of purchasers~~ upon or in connection with the sale or other distribution in this state; of such goods or services.

The person shall be liable in a civil action by the registrant ~~of the mark,~~ for any or all of the remedies provided in section 548.11, except that under subsection 2, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with the intent to cause confusion or mistake or to deceive.

Sec. 13. NEW SECTION. 548.10A INJURY TO BUSINESS REPUTATION — DILUTION.

The owner of a mark which is famous in this state shall be entitled, subject to the principles of equity, to an injunction against another's use of a mark, commencing after the owner's mark becomes famous, which causes dilution of the distinctive quality of the owner's mark, and to obtain such other relief as is provided in this section. In determining whether a mark is famous, a court may consider factors such as, but not limited to:

1. The degree of inherent or acquired distinctiveness of the mark in this state.
2. The duration and extent of use of the mark in connection with the goods and services.
3. The duration and extent of advertising and publicity of the mark in this state.
4. The geographical extent of the trading area in which the mark is used.
5. The channels of trade for the goods or services with which the owner's mark is used.
6. The degree of recognition of the owner's mark in its and in the other's trading areas and channels of trade in this state.

7. The nature and extent of use of the same or similar mark by third parties.

The owner shall be entitled only to injunctive relief in this state in an action brought under this section, unless the subsequent user willfully intended to trade on the owner's reputation or to cause dilution of the owner's mark. If such willful intent is proven, the owner shall also be entitled to the remedies set forth in this chapter, subject to the discretion of the court and the principles of equity.

Sec. 14. Section 548.11, Code 1993, is amended to read as follows:

548.11 REMEDIES.

~~1. The registrant of a mark that has been infringed may be granted an injunction against an infringer in accordance with the principles of equity. The court in its discretion may allow the registrant to recover the damages caused by the infringement or the profits of the infringer attributable to the infringement, or both. The court may order any counterfeits or imitations in the possession or under the control of an infringer to be destroyed and in exceptional cases the court may also award reasonable attorney fees to the prevailing party.~~

~~2. Likelihood of injury to business reputation or to a trade name valid at common law, or of dilution of the distinctive quality of a mark, whether registered or not registered under this chapter, shall be a ground for injunctive relief notwithstanding the absence of competition between the parties or the absence of confusion as to the source of goods or services.~~ The owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits or imitations of the mark and any court may grant injunctions to restrain such manufacture, use, display, or sale as the court deems just and reasonable, and may require the defendants to pay to such owner all profits derived from or all damages suffered by reason of such wrongful manufacture, use, display, or sale. The court may also order that any counterfeits or imitations in the possession or under the control of a defendant be delivered to an officer of the court, or to the complainant, to be destroyed. The court, in its discretion, may enter judgment for an amount not to exceed three times such profits and damages and reasonable attorneys' fees of the prevailing party in cases where the court finds the other party committed such wrongful acts with knowledge or in bad faith or otherwise as according to the circumstances of the case.

The enumeration of any right or remedy in this section shall not affect a registrant's right to prosecute under any penal law of this state.

Sec. 15. NEW SECTION. 548.11A FORUM FOR ACTIONS REGARDING REGISTRATION – SERVICE ON OUT-OF-STATE REGISTRANTS.

1. Actions to require cancellation of a mark registered pursuant to this chapter shall be brought in district court. In an action for cancellation, the secretary shall not be made a party to the proceeding but shall be notified of the filing of the complaint by the clerk of the district court in which it is filed and shall be given the right to intervene in the action.

2. In an action brought against a nonresident registrant, service may be effected upon the secretary as agent for service of the registrant in accordance with the procedures established for service upon nonresident corporations and business entities under section 617.3.

Sec. 16. NEW SECTION. 548.11B COMMON LAW RIGHTS.

This chapter shall not adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

Sec. 17. NEW SECTION. 548.11C FEES.

The secretary shall by rule adopted pursuant to chapter 17A prescribe the fees payable for the various applications and recording fees and for related services. Unless specified by the secretary, the fees payable pursuant to this chapter are not refundable.

Sec. 18. PENDING ACTIONS NOT AFFECTED. This Act shall not affect any suit, proceeding, or appeal pending on the effective date of this Act.

Sec. 19. REPEAL. Sections 548.12 and 548.13, Code 1993, are repealed.

Sec. 20. CODE EDITOR. The Code editor shall renumber sections as provided in this Act to ensure consistency with the model state trademark bill promulgated by the United States trademark association, including the most recent revisions in the model bill.

Approved April 19, 1994

CHAPTER 1091

EDUCATION — MISCELLANEOUS TECHNICAL AND OTHER PROVISIONS

S.F. 2236

AN ACT relating to education by providing technical corrections that adjust language to reflect current usage, delete temporary language, and update ongoing provisions; and relating to prescription refills provided to students residing in the Iowa braille and sight saving school, the school for the deaf, and the state hospital-school.

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

Section 1. Section 256.7, subsection 12, Code Supplement 1993, is amended to read as follows:

12. Adopt rules pursuant to chapter 17A relating to educational programs and budget limitations for educational programs pursuant to sections 282.28, 282.29, 282.30, and 282.31. ~~The rules adopted pursuant to this subsection shall be written by June 30, 1987.~~

Sec. 2. Section 256.7, subsection 21, Code Supplement 1993, is amended to read as follows:

21. Adopt rules ~~to be effective by July 1, 1993, which~~ that set standards for approval of family support preservice and in-service training programs, offered by area education agencies and practitioner preparation institutions, and family support programs offered by or through local school districts.

Sec. 3. Section 256.7, subsections 7, 8, 15, 16, and 17, Code Supplement 1993, are amended by striking the subsections.

Sec. 4. Section 256.9, subsection 27, Code Supplement 1993, is amended to read as follows:

27. ~~Cause to be printed in pamphlet form after each session of the general assembly~~ Direct that any amendments or changes in the school laws, with necessary notes and suggestions, ~~to~~ be distributed as prescribed in subsection 26 annually.

Sec. 5. Section 256.9, subsection 33, Code Supplement 1993, is amended to read as follows:

33. Develop programs in conjunction with the center for early development education to be made available to the school districts to assist them in identification of at-risk children and their developmental needs. ~~For a period of one year, beginning July 1, 1988, and ending June 30, 1989, direct the educational services division of the area education agencies to develop program plans to assist the districts in educating at-risk children. The area education agencies may enter into contracts with other groups or agencies to provide all or part of the program. The programs shall include but are not limited to:~~

~~a. Administrator and staff in-service education.~~

~~b. Area education agency and district staff utilization plans.~~

~~c. Qualifications required of personnel administering the program.~~

~~d. Child-to-staff ratio specifications.~~

~~e. Longitudinal testing of the children.~~

~~f. Referrals to outside agencies.~~

~~g. An emphasis on integrating the identified children with the balance of the class.~~

~~h. Proposed curriculum content and materials.~~

~~i. Cost projections for provision of the programs.~~

Sec. 6. Section 256.9, subsection 36, Code Supplement 1993, is amended to read as follows:

36. ~~By July 1, 1990, develop~~ Develop, or direct the area education agencies to develop, a statewide technical assistance support network to provide school districts~~,~~ or district subcontractors under section 279.49~~,~~ with assistance in creating developmentally appropriate programs under section 279.49.

Sec. 7. Section 256.9, subsection 41, Code Supplement 1993, is amended to read as follows:

41. Develop ~~by September 1, 1990,~~ an application and review process for the identification of quality instructional centers at the community colleges. The process developed shall include but is not limited to the development of criteria for the identification of a quality instructional center as well as for the enhancement of other program offerings in order to upgrade programs to quality instructional center status. Criteria established shall be designed to increase student access to programs, establish high quality occupational and vocational education programs, and ~~to~~ enhance interinstitutional cooperation in program offerings.

Sec. 8. Section 256.9, subsection 42, Code Supplement 1993, is amended to read as follows:

42. Explore, in conjunction with the state board of regents, the need for coordination between school districts, area education agencies, regents' institutions, and community colleges for purposes of delivery of courses, use of telecommunications, transportation, and other similar issues. Coordination may include, but is not limited to, coordination of calendars, programs, schedules, or telecommunications emissions. ~~The department shall develop recommendations which shall be submitted in a report to the general assembly by February 15, 1991.~~

Sec. 9. Section 256.9, subsection 43, Code Supplement 1993, is amended to read as follows:

43. Develop ~~by September 1, 1990,~~ an application and review process for approval of administrative and program sharing agreements between two or more community colleges or a community college and an institution of higher education under the board of regents entered into pursuant to section 260C.46.

Sec. 10. Section 256.9, subsection 44, Code Supplement 1993, is amended to read as follows:

44. Prepare a plan and a report for ensuring that all Iowa children will be able to satisfy the requirements for high school graduation. The plan and report shall include a statement of the dimensions of the dropout problem in Iowa; a survey of existing programs geared to dropout prevention; a plan for use of competency-based outcome methods and measures; proposals for alternative means for satisfying graduation requirements including alternative high school settings, supervised vocational experiences, education experiences within the correctional system, screening and assessment mechanisms for identifying students who are at risk of dropping out and the development of an individualized education plan for identified students; a requirement that schools provide information to students who drop out of school on options for pursuing education at a later date; the development of basic materials and information for schools to present to students leaving school; a requirement that students notify their school districts of residence when the student discontinues school, including the reasons for leaving school and future plans for career development; a requirement that, unless a student chooses to make the information relating to the student leaving school confidential, schools make the information available to community colleges, area education agencies, and other educational institutions upon request; and recommendations for the establishment of pilot projects for the development of model alternative options education programs; a plan for implementation of any recommended courses of action to attain a zero dropout rate by the year 2000; and other requirements necessary to achieve the goals of this subsection. Alternative means for satisfying graduation requirements which relate to the development of individualized education plans for students who have dropped out of the regular school program shall include, but are not limited to, a tracking component that requires a school district to maintain periodic contact with a student, assistance to a dropout in curing any of the student's academic deficiencies, an assessment of the student's employability skills and plans to improve those skills, and treatment or counseling for a student's social needs. The department shall also prepare

a cost estimate associated with implementation of proposals to attain a zero dropout rate, including but not limited to evaluation of existing funding sources and a recommended allocation of the financial burden among federal, state, local, and family resources. ~~The report and plan shall be submitted to the general assembly by January 15, 1993.~~

Sec. 11. Section 256.9, subsection 46, Code Supplement 1993, is amended to read as follows:

46. Develop ~~and provide by July 1, 1993,~~ in-service and preservice training programs through the area education agencies and practitioner preparation institutions and guidelines for school districts for the establishment of family support programs. Guidelines developed shall describe barriers to learning and development which can affect children served by family support programs.

Sec. 12. Section 256.9, subsection 39, Code Supplement 1993, is amended by striking the subsection.

Sec. 13. Section 256.11, subsections 9 and 9A, Code Supplement 1993, are amended by striking the subsections.

Sec. 14. Section 256.11A, Code Supplement 1993, is amended to read as follows:

256.11A ~~IMPLEMENTATION OF STANDARDS~~ GUIDANCE PROGRAM — MEDIA SERVICES PROGRAM — WAIVER.

~~1. Schools and school districts are not required to meet the standard adopted by the state board under section 256.17, Code Supplement 1987, requiring that ten units of vocational education be offered and taught in grades nine through twelve unless the general assembly enacts legislation relating to the requirements stated in the standard. Until the time schools and school districts are required to meet the standard, the occupational education requirements stated in section 256.11, subsection 5, paragraph "h", apply.~~

~~2~~ 1. Schools and school districts unable to meet the standard adopted by the state board requiring each school or school district operating a kindergarten through grade twelve program to provide an articulated sequential elementary-secondary guidance program may, not later than August 1, 1993, for the school year beginning July 1, 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 4 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 a one-year extension of the waiver.

~~If a waiver is approved under subsection 4, the school or school district shall meet the requirements of section 256.11, subsection 9, paragraph "b", Code Supplement 1987, for the period for which the waiver is approved.~~

~~3~~ 2. Not later than August 1, 1993, for the school year beginning July 1, 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~~ rule adopted by the state board to establish and operate a media services program to support the total curriculum for that district or school. The procedures specified in subsection 4 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.

~~If a waiver is approved under subsection 4, the school district or school shall meet the requirements of section 256.11, subsection 9, paragraph "a", Code Supplement 1987, for the period for which the waiver is approved.~~

~~4~~ 3. A request for a waiver filed by the board of directors of a school district or authorities in charge of a nonpublic school shall describe actions being taken by the district or school to meet the requirement for which the district or school has requested a waiver. ~~The state board of education shall adopt rules, by January 1, 1990, under chapter 17A to implement a procedure and criteria for the department to use in making a decision to approve a waiver under subsections 2 and 3.~~

Sec. 15. Section 256B.5, Code 1993, is amended to read as follows:

256B.5 SECRETARY'S REPORT.

The Iowa department of public health shall ~~from time to time as requested~~ furnish to the state ~~division~~ bureau of special education upon request information obtained from birth certificates relative to the name, address, and disability of any case of ~~congenital deformity or physical defect~~ developmental disability. The state ~~crippled children's service~~ child health specialty clinics of the university of Iowa shall ~~from time to time as required~~ upon request furnish to the state ~~division~~ bureau of special education the name, address, and disability of all children of their register.

Sec. 16. Section 262.9, subsection 4, paragraphs a, b, and c, Code Supplement 1993, are amended to read as follows:

~~a. By July 1, 1989, a minimum of fifty percent of the purchases of inks which are used for newsprint paper for printing services performed internally or contracted for by the board shall be soybean-based. The percentage of purchases by the board of soybean-based inks used for newsprint printing services shall increase by July 1, 1991, to one hundred percent of the total purchases of inks used for newsprint printing services.~~

~~b~~ a. ~~By July 1, 1991, a minimum of twenty-five percent of the purchases of~~ All inks~~, other than inks which are used for newsprint printing services, and which~~ purchased that are used internally or contracted for by the board shall be soybean-based to the extent formulations for such inks are available. ~~The percentage of purchases by the board of the soybean-based inks, to the extent formulations for such inks are available, shall increase by July 1, 1992, to fifty percent of the total purchases of the inks, and shall increase by July 1, 1993, to one hundred percent of the total purchases of the inks.~~

~~c~~ b. By July 1, 1989, a minimum of fifteen percent of the purchases of garbage can liners made by the board shall be starch-based plastic garbage can liners. The percentage purchased shall increase by five percent annually until fifty percent of the purchases of garbage can liners are purchases of starch-based plastic garbage can liners.

Sec. 17. Section 262.9, subsection 5, Code Supplement 1993, is amended to read as follows:

5. In conjunction with the recommendations made by the department of natural resources, purchase and use recycled printing and writing paper, with the exception of specialized paper when no recyclable product is available, in accordance with the schedule established in section 18.18; establish a wastepaper recycling program ~~by January 1, 1990,~~ for all institutions governed by the board in accordance with recommendations made by the department of natural resources and the requirements of section 18.20; comply with, and the institutions governed by the board shall also comply with, the recycling goal, recycling schedule, and ultimate termination of purchase and use of polystyrene products for the purpose of storing, packaging, or serving food for immediate consumption pursuant to section 455D.16; shall, in accordance with the requirements of section 18.6, require product content statements, the provision of information regarding on-site review of waste management in product bidding and contract procedures, and compliance with requirements regarding procurement specifications; and shall comply with the requirements for the purchase of lubricating oils and industrial oils as established pursuant to section 18.22.

Sec. 18. Section 262.9, subsection 24, Code Supplement 1993, is amended to read as follows:

24. ~~By July 1, 1991, develop~~ Develop a policy ~~which requires~~ requiring 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 on at least an annual basis.

Sec. 19. Section 262.9, subsection 25, Code Supplement 1993, is amended to read as follows:

25. ~~By July 1, 1991, develop~~ Develop a policy relating to the teaching proficiency of teaching assistants which provides a teaching proficiency standard, instructional assistance to, and evaluation of persons who provide instruction to students at the higher education institutions under the control of the board.

Sec. 20. Section 262.9, subsection 26, Code Supplement 1993, is amended to read as follows:

26. Explore, in conjunction with the department of education, the need for coordination between school districts, area education agencies, state board of regents' institutions, and community colleges for purposes of delivery of courses, use of telecommunications, transportation, and other similar issues. Coordination may include, but is not limited to, coordination of calendars, programs, schedules, or telecommunications emissions. The state board shall develop recommendations as necessary, which shall be submitted in a report to the general assembly ~~by February 15, 1991~~ on a timely basis.

Sec. 21. Section 269.1, Code 1993, is amended to read as follows:

269.1 ADMISSION.

~~All blind persons and persons whose vision is so defective that they cannot be properly instructed in the common schools, who are residents of the state and of suitable age and capacity,~~ Any resident of the state under twenty-one years of age who has a visual disability too severe to acquire a satisfactory education in a regular educational environment shall be entitled to an education in the Iowa braille and sight saving school at the expense of the state. Nonresidents also may be admitted to the Iowa braille and sight saving school if their presence would not be prejudicial to the interests of residents, upon such terms as may be fixed by the state board of regents.

Sec. 22. Section 270.4, Code 1993, is amended to read as follows:

270.4 CLOTHING, PRESCRIPTIONS, AND TRANSPORTATION.

~~When pupils are not supplied with~~ The superintendent shall provide students, who would otherwise be without, with clothing, prescription refills, or transportation, ~~it shall be furnished by the superintendent, who~~ and shall ~~make out an account therefor against~~ bill the student's parent or guardian, if the ~~pupil be~~ student is a minor, ~~and against~~ or the ~~pupil~~ student if the ~~pupil has no parent or guardian, or~~ student has attained the age of majority, ~~which~~ for any clothing, prescription refills, or transportation provided. The bill ~~shall be certified by the superintendent to be correct, and~~ shall be presumptive evidence ~~thereof~~ in all courts.

Sec. 23. Section 282.5, Code 1993, is amended to read as follows:

282.5 READMISSION OF ~~PUPIL~~ STUDENT.

When a ~~scholar~~ student is dismissed by ~~the~~ a teacher, principal, or superintendent, ~~as above provided~~ pursuant to section 282.4, the ~~scholar~~ student may be readmitted by ~~such~~ the teacher, principal, or superintendent, but when expelled by the board the ~~scholar~~ student may be readmitted only by the board or in the manner prescribed by ~~it~~ the board.

Sec. 24. Section 282.18, subsection 14, Code Supplement 1993, is amended by striking the subsection.

Sec. 25. Sections 258.14, 258.15, and 270.2, Code 1993, are repealed.

Approved April 19, 1994

CHAPTER 1092

ETHICS IN GOVERNMENT – MISCELLANEOUS PROVISIONS

S.F. 2242

AN ACT relating to ethics in government by deleting incorrect statutory references; adding subunits of political subdivisions to the definition of agency; excluding independent contractors from the definition of local employee; moving language in the gift law exclusions; excluding employees of the general assembly from the definition of state employee; providing that the gift law exclusions apply to the provision of food, beverages, registration, or scheduled entertainment by lobbying organizations to legislators; defining the scope of ethics complaints that may be filed with the ethics and campaign disclosure board; providing a deadline for the filing of personal financial disclosure statements by candidates in special elections; providing that a lobbyist's registration is to be cancelled when lobbying activities for all clients, employers, or causes have been concluded; providing that lobbyists reports of campaign contributions shall be for candidates for state office; and providing a January 31 reporting date for the filing of reports by lobbyists of the general assembly.

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

Section 1. Section 22.7, subsection 30, Code Supplement 1993, is amended to read as follows:

30. 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 section 68B.31 ~~or 68B.32~~ is not a confidential record unless otherwise provided by law.

Sec. 2. Section 68B.2, subsection 1, Code Supplement 1993, is amended to read as follows:

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 department, division, board, commission, bureau, or office of a political subdivision of the state, but does not include any agricultural commodity promotional board, which is subject to a producer referendum.

Sec. 3. Section 68B.2, subsection 14, Code Supplement 1993, is amended to read as follows:

14. "Local employee" means a person employed by a political subdivision of this state and does not include an independent contractor.

Sec. 4. Section 68B.2, subsection 25, Code Supplement 1993, is amended to read as follows:

25. "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~~ an employee of the general assembly, 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.

Sec. 5. Section 68B.22, subsection 4, paragraph j, Code Supplement 1993, is amended to read as follows:

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, for purposes of a business or educational conference, seminar, or other meeting; 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, for purposes of a business or educational conference, seminar, or other meeting.

Sec. 6. Section 68B.22, subsection 4, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. q. Actual registration costs for informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions. The costs of food, drink, lodging and travel are not "registration costs" under this paragraph. Meetings or sessions which a public official or public employee attends for personal or professional licensing purposes are not "informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions" under this paragraph.

Sec. 7. Section 68B.22, subsection 8, Code Supplement 1993, is amended to read as follows:

8. ~~An~~ Except as otherwise provided in subsection 4, 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. 8. Section 68B.32B, subsection 1, Code Supplement 1993, is amended to read as follows:

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. Any person may file a complaint alleging that a person holding a state office in the executive branch of state government, an employee of the executive branch of state government, or a lobbyist or a client of a lobbyist of the executive branch of state government has committed a violation of this chapter 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.

Sec. 9. Section 68B.35, subsection 5, Code Supplement 1993, is amended to read as follows:

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. Statements shall contain information 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, or, if the person is a candidate in a special election, as soon as practicable after the certification of the name of the nominee under section 43.88, but the statement shall be postmarked no later than seven days after certification. 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 houses 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. Rules adopted shall also include a procedure for notification of candidates of the duty to file disclosure statements under this section.

Sec. 10. Section 68B.36, subsection 2, 4, and 5, Code Supplement 1993, are amended to read as follows:

2. Registration shall be valid from the date of registration until the expiration of the registration period for the type of lobbying in which the person will be engaging. Any change in or addition to the information shall be registered within ten days after the change or addition

is known to the lobbyist. Changes or additions for executive branch lobbyists may be filed ~~either~~ with the ~~executive council or with the agency or office where the original registration was filed~~ board. Changes or additions for registrations of lobbyists of the general assembly shall be filed with either the chief clerk of the house or the secretary of the senate.

4. If a lobbyist's service on behalf of ~~a particular employer, client, or cause~~ all clients, employers, or causes is concluded prior to the end of the calendar year, the lobbyist may cancel the registration on appropriate forms supplied by the ~~executive council~~ board, the chief clerk of the house, or the secretary of the senate. The cancellation forms shall be filed by the lobbyist in the place where the lobbyist filed the original registration. ~~Persons within the executive branch receiving forms canceling a lobbyist's registration shall forward the forms to the executive council.~~ Upon cancellation of registration, a lobbyist is prohibited from engaging in any lobbying activity on behalf of ~~that particular~~ any employer, client, or cause until reregistering and complying with the rules of the ~~executive council~~ board or the general assembly.

5. All federal, state, and local officials or employees representing the official positions of their departments, commissions, boards, or agencies shall, when lobbying the general assembly, present to the chief clerk of the house or the secretary of the senate a letter of authorization from their department or agency heads prior to the commencement of their lobbying. When lobbying a state agency or the office of the governor, the letter shall be presented to the ~~agency or office~~ board. The lobbyist registration statement of these officials and employees shall not be deemed complete until the letter of authorization is attached. Federal, state, and local officials who wish to lobby in opposition to the official position of their departments, commissions, boards, or agencies must indicate this on their lobbyist registration statements.

Sec. 11. Section 68B.37, subsection 1, paragraph b, Code Supplement 1993, is amended to read as follows:

b. ~~Campaign contributions~~ Contributions made to candidates for state office by the lobbyist during calendar months during the reporting period when the general assembly is not in session.

Sec. 12. Section 68B.37, subsection 3, Code Supplement 1993, is amended to read as follows:

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, and January 31. The ~~monthly report~~ reports filed by a lobbyist before the general assembly ~~in January~~ shall contain information for the preceding calendar month or 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.

PARAGRAPH DIVIDED. 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 13, 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 13, 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.

Approved April 19, 1994

CHAPTER 1093

HARASSMENT – STALKING – NO-CONTACT ORDERS

S.F. 2265

AN ACT relating to the offenses of harassment and stalking, providing for the extension of certain no-contact orders, and providing for penalties and other related matters.

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

Section 1. Section 236.14, subsection 2, unnumbered paragraphs 3 and 4, Code Supplement 1993, are amended to read as follows:

The clerk of the court or other person designated by the court shall provide a copy of this order to the victim pursuant to chapter 910A. The order has force and effect until it is modified or terminated by subsequent court action in the contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of section 708.2A, the court shall modify the no-contact order issued by the magistrate to provide that the no-contact order shall continue in effect for a period of one year from the date that the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation. Upon an application by the state which is filed within ninety days prior to the expiration of the modified no-contact order, the court shall modify and extend the no-contact order for an additional period of one year, if the court finds that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. The number of modifications extending the no-contact order permitted by this subsection is not limited.

PARAGRAPH DIVIDED. The clerk of the district court shall also provide notice and copies of the no-contact order to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

Violation of this no-contact order, including modified no-contact orders, 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 or a modified 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 or a modified 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. 2. Section 708.2A, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant is placed on probation.

Sec. 3. Section 708.7, subsection 1, Code 1993, is amended to read as follows:

1. a. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:

~~a.~~ (1) Communicates with another by telephone, telegraph, or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

~~b.~~ (2) Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.

~~e.~~ (3) Orders merchandise or services in the name of another, or to be delivered to another, without the other person's knowledge or consent.

~~d.~~ (4) Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the act did not occur.

b. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

Sec. 4. Section 708.11, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

708.11 STALKING.

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

a. "Accompanying offense" means any public offense committed as part of the course of conduct engaged in while committing the offense of stalking.

b. "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person without legitimate purpose or repeatedly conveying oral or written threats, threats implied by conduct, or a combination thereof, directed at or toward a person.

c. "Immediate family member" means a spouse, parent, child, sibling, or any other person who regularly resides in the household of a specific person, or who within the prior six months regularly resided in the household of a specific person.

d. "Repeatedly" means on two or more occasions.

2. A person commits stalking when all of the following occur:

a. The person purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to, or the death of, that specific person or a member of the specific person's immediate family.

b. The person has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to, or the death of, that specific person or a member of the specific person's immediate family by the course of conduct.

c. The person's course of conduct induces fear in the specific person of bodily injury to, or the death of, the specific person or a member of the specific person's immediate family.

3. a. A person who commits stalking in violation of this section commits a class "C" felony for a third or subsequent offense.

b. A person who commits stalking in violation of this section commits a class "D" felony if any of the following apply:

(1) The person commits stalking in violation of a criminal or civil protective order or injunction, or any other court order.

(2) The person commits stalking while in possession of a dangerous weapon, as defined in section 702.7.

(3) The person commits stalking by directing a course of conduct at a specific person who is under eighteen years of age.

(4) The offense is a second offense.

c. A person who commits stalking in violation of this section commits an aggravated misdemeanor if the offense is a first offense which is not included in paragraph "b".

4. Violations of this section and accompanying offenses shall be considered prior offenses for the purpose of determining whether an offense is a second or subsequent offense. A conviction for, deferred judgment for, or plea of guilty to a violation of this section or an accompanying offense which occurred at any time prior to the date of the violation charged shall be considered in determining that the violation charged is a second or subsequent offense. Deferred judgments pursuant to section 907.3 for violations of this section or accompanying offenses and convictions or the equivalent of deferred judgments for violations in any

other states under statutes substantially corresponding to this section or accompanying offenses shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and its accompanying offenses and can therefore be considered corresponding statutes. Each previous violation of this section or an accompanying offense on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense. In addition, however, accompanying offenses committed as part of the course of conduct engaged in while committing the violation of stalking charged shall be considered prior offenses for the purpose of that violation, even though the accompanying offenses occurred at approximately the same time. An offense shall be considered a second or subsequent offense regardless of whether it was committed upon the same person who was the victim of any other previous offense.

5. Notwithstanding section 804.1, R.Cr.P. 7, Ia. Ct. Rules, 3d ed., or any other provision of law to the contrary, upon the filing of a complaint and a finding of probable cause to believe an offense has been committed in violation of this section, or after the filing of an indictment or information alleging a violation of this section, the court shall issue an arrest warrant, rather than a citation or summons. A peace officer shall not issue a citation in lieu of arrest for a violation of this section. Notwithstanding section 804.21 or any other provision of law to the contrary, a person arrested for stalking shall be immediately taken into custody and shall not be released pursuant to pretrial release guidelines, a bond schedule, or any similar device, until after the initial appearance before a magistrate. In establishing the conditions of release, the magistrate may consider the defendant's prior criminal history, in addition to the other factors provided in section 811.2.

Sec. 5. Section 805.1, subsection 1, Code 1993, is amended to read as follows:

1. Except for an offense for which an accused would not be eligible for bail under section 811.1 or a violation of section 708.11, a peace officer having grounds to make an arrest may issue a citation in lieu of making an arrest without a warrant or, if a warrantless arrest has been made, a citation may be issued in lieu of continued custody.

Sec. 6. Section 811.1, subsection 3, Code 1993, is amended to read as follows:

3. Notwithstanding subsections 1 and 2, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, a felony offense under chapter 124 not provided for in subsection 1 or 2 ~~or a violation punishable under section 708.11, subsection 2, paragraph "a",~~ is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons. ~~While the presumption of ineligibility for bail established in this subsection shall not apply to a violation punishable under section 708.11, subsection 2, paragraph "b" or "c", in considering bail for a defendant awaiting judgment of conviction and sentencing following a plea or verdict of guilty of, or appealing a conviction of, a violation punishable pursuant to section 708.11, subsection 2, paragraph "b" or "c", the court shall consider the likelihood of the defendant reestablishing contact with the victim of the violation.~~

Approved April 19, 1994

CHAPTER 1094

UNCLAIMED DRY CLEANING
H.F. 403

AN ACT relating to the disposition of property left unclaimed at a dry cleaning establishment.

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

Section 1. NEW SECTION. 556F.1 UNCLAIMED PERSONAL PROPERTY HELD BY A DRY CLEANING ESTABLISHMENT.

All property deposited with a dry cleaning establishment which remains unclaimed for a period of four months after the establishment has attempted to contact the owner of the property by ordinary mail one time at the property owner's last known mailing address, may be presumed abandoned and disposed of by delivering the property to a local nonprofit charitable organization.

Approved April 19, 1994

CHAPTER 1095

MOTOR CARRIER CERTIFICATES AND PERMITS
H.F. 545

AN ACT relating to motor carrier certificates and permits and providing penalties.

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

Section 1. Section 325.33, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A carrier whose certificate has been suspended or revoked shall not operate within the state until the department has reissued the certificate or issued a new certificate.

Sec. 2. Section 325.34, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

325.34 SCHEDULED VIOLATIONS — PENALTY.

An owner, officer, agent or employee of a motor carrier or other person who violates this chapter or a rule adopted pursuant to this chapter, or who aids or abets a person in a failure to comply with this chapter or a rule adopted pursuant to this chapter shall be subject to a fine of two hundred fifty dollars. If a second violation occurs within twelve months of the first violation the fine shall be five hundred dollars. If a third or subsequent violation occurs within the same twelve-month time period in which the first and second violations occurred, the fine shall be one thousand dollars.

Sec. 3. Section 327.22, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

327.22 SCHEDULED VIOLATIONS — PENALTY.

An owner, officer, agent or employee of a truck operator or other person who violates this chapter or a rule adopted pursuant to this chapter, or who aids or abets a person in a failure to comply with this chapter or a rule adopted pursuant to this chapter shall be subject to a fine of two hundred fifty dollars. If a second violation occurs within twelve months of the first violation the fine shall be five hundred dollars. If a third or subsequent violation occurs within the same twelve-month time period in which the first and second violations occurred, the fine shall be one thousand dollars.

Sec. 4. NEW SECTION. 327.24 ADVERTISING.

Any advertising of available service provided by a truck operator or a contract carrier shall contain or display the number of the permit issued under section 327.6.

Sec. 5. Section 327A.9, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A liquid transport carrier whose certificate has been suspended or revoked shall not operate within the state until the department has reissued the certificate or issued a new certificate.

Sec. 6. Section 327A.18, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

327A.18 SCHEDULED VIOLATIONS – PENALTY.

An owner, officer, agent or employee of a liquid transport carrier or other person who violates this chapter or a rule adopted pursuant to this chapter, or who aids or abets a person in a failure to comply with this chapter or a rule adopted pursuant to this chapter shall be subject to a fine of two hundred fifty dollars. If a second violation occurs within twelve months of the first violation the fine shall be five hundred dollars. If a third or subsequent violation occurs within the same twelve-month time period in which the first and second violations occurred, the fine shall be one thousand dollars.

Sec. 7. NEW SECTION. 327A.22 ADVERTISING.

Any advertising of available service provided by a liquid transport carrier shall contain or display the number of the certificate issued under this chapter.

Approved April 19, 1994

CHAPTER 1096

COMPUTERIZED CRIMINAL INTELLIGENCE DATA

H.F. 2133

AN ACT relating to public safety by allowing the computerized sharing of criminal intelligence data.

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

Section 1. Section 692.8, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Intelligence data contained in the files of the department of public safety or a criminal justice agency may be placed within a computer data storage system, provided that access to the computer data storage system is restricted to authorized employees of the department or criminal justice agency ~~and the computer data storage system is not interconnected with any other computer, computer system, or communication facility outside of the department or agency and cannot be accessed by persons outside of the department or agency~~. The department shall adopt rules to implement this paragraph.

Approved April 19, 1994

CHAPTER 1097

REAL PROPERTY RAFFLE
H.F. 2230

AN ACT relating to the raffle of real property by a qualified organization and providing an effective date.

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

Section 1. REAL PROPERTY RAFFLE AUTHORIZED – TEMPORARY. Notwithstanding a contrary provision of section 99B.7, upon application and payment of a fee of one hundred dollars, the department of inspections and appeals shall issue a raffle license to a tax-exempt, nonprofit, charitable organization for the purpose of raffling a parcel of real property which was acquired as a gift by the organization. The license shall allow the conducting of a raffle for not more than nine months during the 1994 calendar year. The real property to be raffled must be owned by the licensee before the effective date of this Act and the license to conduct the real estate raffle shall be purchased within ten days after the effective date of this Act. The value of the parcel of real property to be raffled may exceed twenty thousand dollars and the cost to participate in the raffle may exceed one dollar for each participant.

The licensee shall meet all other requirements for licensees under section 99B.2 and 99B.7. In addition, the licensee shall keep the receipts from the raffle in a separate financial account and shall file a cumulative report for the raffle by January 15, 1995, with the department of inspections and appeals in a form determined by the department.

The department of inspections and appeals shall conduct a special audit of the raffle by January 30, 1995, to verify compliance with the appropriate requirements of chapter 99B and this Act, except as otherwise provided in this Act. The department of inspections and appeals shall file a copy of the audit report with the governor and the general assembly on or before February 15, 1995.

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

Sec. 3. REPEALER. This Act is repealed effective January 1, 1995.

Approved April 19, 1994

CHAPTER 1098

CONTACT LENSES AND SPECTACLE LENSES
H.F. 2309

AN ACT relating to the provision of contact lenses and spectacle lenses and providing penalties.

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

Section 1. NEW SECTION. 147.108 CONTACT LENS PRESCRIBING AND DISPENSING.

1. A person shall not dispense or adapt contact lenses without first receiving authorization to do so by a written prescription, except when authorized orally under subsection 2, from a person licensed under chapter 148, 150, 150A, or 154.

2. After contact lenses have been adequately adapted and the patient released from initial follow-up care by a person licensed under chapter 148, 150, 150A, or 154, the patient may request a copy, at no cost, of the contact lens prescription from that licensed person. A person licensed under chapter 148, 150, 150A, or 154 shall not withhold a contact lens prescription after the

requirements of this section have been met. The prescription, at the option of the prescriber, may be given orally only to a person who is actively practicing and licensed under chapter 148, 150, 150A, 154, or 155A. The contact lens prescription shall contain an expiration date, at the discretion of the prescriber, but not to exceed eighteen months. The contact lens prescription shall contain the necessary requirements of the ophthalmic lens, and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription may contain adapting and material guidelines and may also contain specific instructions for use by the patient. For the purpose of this section, "ophthalmic lens" means one which has been fabricated to fill the requirements of a particular contact lens prescription.

3. A person who fills a contact lens prescription shall maintain a file of a valid prescription for a period of two years.

4. Notwithstanding section 147.86, a person who violates this section is guilty of a simple misdemeanor for a first violation. Subsequent violations are governed by section 147.86.

Sec. 2. NEW SECTION. 147.109 OPHTHALMIC SPECTACLE LENS PRESCRIBING AND DISPENSING.

1. A person shall not dispense or adapt an ophthalmic spectacle lens or lenses without first receiving authorization to do so by a written prescription from a person licensed under chapter 148, 150, 150A, or 154. For the purpose of this section, "ophthalmic spectacle lens" means one which has been fabricated to fill the requirements of a particular spectacle lens prescription.

2. Upon completion of an eye examination, a person licensed under chapter 148, 150, 150A, or 154 shall furnish the patient a copy of their ophthalmic spectacle lens prescription at no cost. The ophthalmic spectacle lens prescription shall contain an expiration date. The ophthalmic spectacle lens prescription shall contain the requirements of the ophthalmic spectacle lens and the prescription validation requirements as defined by rules adopted pursuant to this section. The prescription, at the option of the prescriber, may contain adapting and material guidelines and may also contain specific instructions for use by the patient.

3. Upon request of a patient, a person licensed under chapter 148, 150, 150A, or 154 shall provide the prescription of the patient, if the prescription has not expired, at no cost to another person licensed under chapter 148, 150, 150A, or 154. The person licensed under chapter 148, 150, 150A, or 154 shall accept the prescription and shall not require the patient to undergo an eye examination unless, due to observation or patient history, the licensee has reason to require an examination.

4. A dispenser shall maintain a file of a valid prescription for a period of two years.

5. Notwithstanding section 147.86, a person who violates this section is guilty of a simple misdemeanor for a first violation. Subsequent violations are governed by section 147.86.

Sec. 3. Section 154.9, Code 1993, is repealed.

Approved April 19, 1994

CHAPTER 1099

PRESENTENCE INVESTIGATIONS
H.F. 2325

AN ACT to limit the use of presentence investigations.

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

Section 1. Section 901.2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Upon a plea of guilty, a verdict of guilty, or a special verdict upon which a judgment of conviction of a public offense may be rendered, the court shall receive from the state, from the judicial district department of correctional services, and from the defendant any information which may be offered which is relevant to the question of sentencing. The court may consider information from other sources.

PARAGRAPH DIVIDED. Notwithstanding section 13.10, the court may determine if the defendant shall be required to provide a physical specimen to be submitted for DNA profiling if the defendant is to be placed on probation or work release. The court shall consider the deterrent effect of DNA profiling, the likelihood of repeated violations by the defendant, and the seriousness of the offense. When funds have been allocated from the general fund of the state, or funds are provided by other public or private sources, the court shall order DNA profiling.

The court shall not order a presentence investigation when the offense is a class "A" felony. If, however, the board of parole determines that the Iowa medical and classification center reception report for a class "A" felon is inadequate, the board may request and shall be provided with additional information from the appropriate judicial district department of correctional services. The court shall order a presentence investigation when the offense is a class ~~"B,"~~ "B", class ~~"C,"~~ "C", or class "D" felony. A presentence investigation for a class ~~"B,"~~ "B", class ~~"C,"~~ "C", or class "D" felony shall not be waived. The court may order, with the consent of the defendant, that the presentence investigation begin prior to the acceptance of a plea of guilty, or prior to a verdict of guilty. The court may order a presentence investigation when the offense is an aggravated ~~or~~ misdemeanor. The court may order a presentence investigation when the offense is a serious misdemeanor only upon a finding of exceptional circumstances warranting an investigation. Notwithstanding section 901.3, a presentence investigation ordered by the court for a serious misdemeanor shall include information concerning only the following:

Approved April 19, 1994

CHAPTER 1100

RACING AND GAMING – MISCELLANEOUS PROVISIONS
H.F. 2375

AN ACT relating to the regulation of pari-mutuel racetracks and gaming on excursion gambling boats, and providing an effective date.

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

Section 1. Section 99D.7, subsection 19, Code 1993, is amended to read as follows:

19. To require licensees to indicate in their racing programs those horses ~~to~~ which ~~the drugs~~ are treated with the legal medication lasix or phenylbutazone ~~were administered within ten days before the race or to which the drugs are to be administered before the race~~. The program shall also indicate if it is the first~~, second, or third~~ or subsequent time that a horse is racing with lasix, or if the horse has previously raced with lasix and the present race is the first race for the horse without lasix following its use.

Sec. 2. Section 99D.23, subsection 4, Code 1993, is amended to read as follows:

4. The commission veterinarian shall keep a continuing record ~~of the racing soundness~~ of all horses ~~examined~~ determined to be sick, unsafe, unsound, or unfit to race by a commission veterinarian at a racetrack.

Sec. 3. Section 99D.25, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. "Numbing" means the applying of ~~dry~~ ice or a ~~chemical or mechanical~~ freezing device or substance to the limbs of a horse or dog ~~within ten hours before the start of a race, or the applying of ice or a cold pack to the limbs of a horse or dog~~ within two hours before the start of a race, or a surgical or other procedure which was, at any time, performed in which the nerves of a horse or dog were severed, destroyed, injected, or removed.

Sec. 4. Section 99D.25, subsection 6, Code 1993, is amended by striking the subsection.

Sec. 5. Section 99D.25A, subsection 7, Code 1993, is amended to read as follows:

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 veterinarian. The practicing veterinarian must deposit with the commission 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 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. 6. Section 99F.17, subsection 5, Code 1993, is amended to read as follows:

5. ~~A manufacturer or distributor of gambling games who has been granted a license under this section shall have a representative within this state to take delivery of gambling games or implements of gambling prior to delivery to a licensee.~~ The manufacturer or distributor of gambling games or implements of gambling shall provide the commission with a copy of the invoice showing the items shipped to the licensee and a copy of the bill of lading.

Sec. 7. Section 99F.17, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Subsection 2 does not apply in the following cases, if approved by the commission:

a. Gambling games or implements of gambling previously installed on an excursion gambling boat licensed in another jurisdiction.

b. Gambling games or implements of gambling previously installed on an excursion gambling boat licensed in this state.

Sec. 8. Section 99F.17A, Code 1993, is amended to read as follows:

99F.17A INSPECTION OF ~~SLOT MACHINES OR VIDEO GAMES OF CHANCE~~ GAMBLING GAMES OR IMPLEMENTS OF GAMBLING.

~~The representative of a~~ A licensed manufacturer or distributor of gambling games ~~who takes delivery of slot machines or video games of chance under section 99F.17, subsection 5,~~ or implements of gambling shall deliver ~~those slot machines or video games of chance~~ the gambling games or implements of gambling to a ~~land-based facility~~ location approved by the commission for inspection and approval prior to ~~installation~~ being placed in operation. Gambling games or implements of gambling acquired pursuant to section 99F.17, subsection 6, shall be inspected and approved by the commission prior to being placed in operation. ~~Slot machines or video games of chance~~ Gambling games or implements of gambling passing inspection and receiving approval may then be ~~installed~~ placed in operation on an excursion gambling boat.

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

Approved April 19, 1994

CHAPTER 1101

COLLECTION OF CHILD SUPPORT

H.F. 2407

AN ACT relating to the collection of child support, including levies against the accounts of certain child support obligors and including affecting of the professional licensure or certification status of an obligor held in contempt of court.

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

Section 1. NEW SECTION. 252I.1 DEFINITIONS.

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

1. "Account" means "account" as defined in section 524.103, "share account or shares" as defined in section 534.102, the savings or deposits of a member received or being held by a credit union, or certificates of deposit. "Account" also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102. However, "account" does not include amounts held by a financial institution as collateral for loans extended by the financial institution.

2. "Bank" means "bank", "insured bank", "private bank", and "state bank" as defined in section 524.103.

3. "Court order" means "court order" as defined in section 252C.1.

4. "Credit union" means "credit union" as defined in section 533.51.

5. "Financial institution" includes a bank, credit union, or savings and loan association. "Financial institution" also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.

6. "Obligor" means a person who has been ordered by a court or administrative authority to pay support.

7. "Savings and loan association" means "association" as defined in section 534.102.

8. "Support" or "support payments" means "support" or "support payments" as defined in section 252D.1.

9. "Unit" or "child support recovery unit" means the child support recovery unit created in section 252B.2.

10. "Working days" means only Monday, Tuesday, Wednesday, Thursday, and Friday, but excluding the holidays specified in section 1C.2, subsections 1 through 9.

Sec. 2. NEW SECTION. 252I.2 PURPOSE AND USE.

1. Notwithstanding other statutory provisions which provide for the execution, attachment, or levy against accounts, the unit may utilize the process established in this chapter to collect delinquent support payments provided that any exemptions or exceptions which specifically apply to enforcement of support obligations pursuant to other statutory provisions also apply to this chapter.

2. An obligor is subject to the provisions of this chapter if the obligor's support obligation is being enforced by the child support recovery unit, and if the 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, 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 support payment for one month.

3. Any amount forwarded by a financial institution under this chapter shall not exceed the amounts specified in 15 U.S.C. § 1673(b) and shall not exceed the delinquent or accrued amount of support owed by the obligor.

Sec. 3. NEW SECTION. 252I.3 INITIAL NOTICE TO OBLIGOR.

The unit may proceed under this chapter only if notice has been provided to the obligor in one of the following manners:

1. The obligor is provided notice of the provisions of this chapter in the court order establishing the support obligation. The unit or district court may include language in any new or modified support order issued on or after July 1, 1994, notifying the obligor that the obligor is subject to the provisions of this chapter.

2. The unit may send a notice by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to the provisions of this chapter, with proof of service completed according to rule of civil procedure 82.

Sec. 4. NEW SECTION. 252I.4 VERIFICATION OF ACCOUNTS AND IMMUNITY FROM LIABILITY.

1. The unit may contact a financial institution to obtain verification of the account number, the names and social security numbers listed for the account, and the account balance of any account held by an obligor. Contact with a financial institution may be by telephone or by written communication. The financial institution may require positive voice recognition and may require the telephone number of the authorized person from the unit before releasing an obligor's account information by telephone.

2. The financial institution is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for any information released by the financial institution to the unit pursuant to this chapter.

3. The financial institution or the unit is not liable for the cost of any early withdrawal penalty of an obligor's certificate of deposit.

Sec. 5. NEW SECTION. 252I.5 ADMINISTRATIVE LEVY – NOTICE TO FINANCIAL INSTITUTION.

1. If an obligor is subject to this chapter under section 252I.2, the unit may initiate an administrative action to levy against the accounts of the obligor. If notice has previously been provided pursuant to section 252I.3, further notice is not required.

2. The unit may send a notice to the financial institution with which the account is placed, directing that the financial institution forward all or a portion of the moneys in the obligor's account or accounts to the collection services center established pursuant to chapter 252B. The notice shall be sent by regular mail, with proof of service completed according to rule of civil procedure 82.

3. The notice to the financial institution shall contain all of the following:

a. The name and social security number of the obligor.

b. A statement that the obligor is believed to have one or more accounts at the financial institution.

c. A statement that pursuant to the provisions of this chapter, the obligor's accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.

d. The maximum amount that shall be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.

e. The prescribed time frame which the financial institution must meet in forwarding amounts.

f. The address of the collection services center and the collection services center account number.

g. A telephone number, address, and contact name of the child support recovery unit contact initiating the action.

Sec. 6. NEW SECTION. 252I.6 ADMINISTRATIVE LEVY – NOTICE TO SUPPORT OBLIGOR.

1. The unit may administratively initiate an action to seize accounts of an obligor who is subject to this chapter under section 252I.2.

2. The unit shall notify an obligor subject to this chapter, and any other party known to have an interest in the account, of the action. The notice shall contain all of the following:

a. The name and social security number of the obligor.

b. A statement that the obligor is believed to have one or more accounts at the financial institution.

c. A statement that pursuant to the provisions of this chapter, the obligor's accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.

d. The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.

e. The prescribed time frames within which the financial institution must comply.

f. A statement that any challenge to the action shall be in writing and shall be received by the child support recovery unit within ten days of the date of the notice to the obligor.

g. The address of the collection services center and the collection services center account number.

h. A telephone number, address, and contact name for the child support recovery unit contact initiating the action.

3. The unit shall forward the notice to the obligor by regular mail within two working days of sending the notice to the financial institution pursuant to section 252I.5. Proof of service shall be completed according to rule of civil procedure 82.

Sec. 7. NEW SECTION. 252I.7 RESPONSIBILITIES OF FINANCIAL INSTITUTION.

Upon receipt of a notice under section 252I.5, the financial institution shall do all of the following:

1. Immediately encumber funds in all accounts in which the obligor has an interest to the extent of the debt indicated in the notice from the unit.

2. No sooner than fifteen days, and no later than twenty days from the date the financial institution receives the notice under section 252I.5, unless notified by the unit of a challenge by the obligor or an account holder of interest, the financial institution shall forward the moneys encumbered to the collection services center with the obligor's name and social security number, collection services center account number, and any other information required in the notice.

3. The financial institution may assess a fee against the obligor, not to exceed ten dollars, for forwarding of moneys to the collection services center. This fee is in addition to the amount of support due. In the event that there are insufficient moneys to cover the fee and the support amount due, the institution may deduct the fee amount prior to forwarding moneys to the collection services center and the amount credited to the support obligation shall be reduced by the fee amount.

Sec. 8. NEW SECTION. 252I.8 CHALLENGES TO ACTION.

1. Challenges under this chapter may be initiated only by an obligor or by an account holder of interest. Actions initiated by the unit under this chapter are not subject to chapter 17A, and resulting court hearings following certification shall be an original hearing before the district court.

2. The person challenging the action shall submit a written challenge to the person identified as the contact for the unit in the notice, within ten working days of the date of the notice.

3. The unit shall, upon receipt of a written challenge, review the facts of the case with the challenging party. Only a mistake of fact, including but not limited to, a mistake in the identity of the obligor or a mistake in the amount of delinquent support due shall be considered as a reason to dismiss or modify the proceeding.

4. If the unit determines that a mistake of fact has occurred the unit shall proceed as follows:

a. If a mistake in identity has occurred or the obligor is not delinquent in an amount equal to the payment for one month, the unit shall notify the financial institution that the administrative levy has been released. The unit shall provide a copy of the notice to the support obligor by regular mail.

b. If the obligor is delinquent, but the amount of the delinquency is less than the amount indicated in the notice, the unit shall notify the financial institution of the revised amount with

a copy of the notice and issue a copy to the obligor or forward a copy to the obligor by regular mail. Upon written receipt of instructions from the unit, the financial institution shall release the funds in excess of the revised amount to the obligor and the moneys in the amount of the debt shall be processed according to section 252I.7.

5. If the unit finds no mistake of fact, the unit shall provide a notice to that effect to the challenging party by regular mail. Upon written request of the challenging party, the unit shall request a hearing before the district court in the county in which the underlying support order is filed.

a. The financial institution shall encumber moneys if the child support recovery unit notifies the financial institution to do so.

b. The clerk of the district court shall schedule a hearing upon the request by the unit for a time not later than ten calendar days after the filing of the request for hearing. The clerk shall mail copies of the request for hearing and the order scheduling the hearing to the unit and to all account holders of interest.

c. If the court finds that there is a mistake of identity or that the obligor does not owe the delinquent support, the unit shall notify the financial institution that the administrative levy has been released.

d. If the court finds that the obligor has an interest in the account, and the amount of support due was incorrectly overstated, the unit shall notify the financial institution to release the excess moneys to the obligor and remit the remaining moneys in the amount of the debt to the collection services center for disbursement to the appropriate recipient.

e. If the court finds that the obligor has an interest in the account, and the amount of support due is correct, the financial institution shall forward the moneys to the collection services center for disbursement to the appropriate recipient.

f. If the obligor or any other party known to have an interest in the account fails to appear at the hearing, the court may find the challenging party in default, shall ratify the administrative levy, if valid upon its face, and shall enter an order directing the financial institution to release the moneys to the unit.

g. Issues related to visitation, custody, or other provisions not related to levies against accounts are not grounds for a hearing under this chapter.

h. Support orders shall not be modified under a challenge pursuant to this section.

i. Any findings in the challenge of an administrative levy related to the amount of the accruing or accrued support obligation do not modify the underlying support order.

j. An order entered under this chapter for a levy against an account of a support obligor has priority over a levy for a purpose other than the support of the dependents in the court order being enforced.

6. The support obligor may withdraw the request for challenge by submitting a written withdrawal to the person identified as the contact for the unit in the notice or the unit may withdraw the administrative levy at any time prior to the court hearing and provide notice of the withdrawal to the obligor and any account holder of interest and to the financial institution, by regular mail.

7. If the financial institution has forwarded moneys to the collection services center and has deducted a fee from the moneys of the account, or if any additional fees or costs are levied against the account, and all funds are subsequently refunded to the account due to a mistake of fact or ruling of the court, the child support recovery unit shall reimburse the account for any fees assessed by the financial institution. If the mistake of fact is a mistake in the amount of support due and any portion of the moneys is retained as support payments, however, the unit is not required to reimburse the account for any fees or costs levied against the account. Additionally, for the purposes of reimbursement to the account for any fees or costs, each certificate of deposit is considered a separate account.

Sec. 9. Section 598.23A, subsection 2, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

If a person is cited for contempt, the court may do ~~either~~ any of the following:

Sec. 10. Section 598.23A, subsection 2, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Enjoin the contemnor from engaging in the exercise of any activity governed by a license.

(1) If the court determines that an extreme hardship will result from the injunction, the court order may allow the contemnor to engage in the exercise of the activity governed by the license, subject to terms established by the court, which shall include, at a minimum, that the contemnor enter into an agreement to satisfy all obligations owing over a period of time satisfactory to the court.

(2) If the court order allows for the exercise of the activity governed by a license pending satisfaction of an obligation over time, and the contemnor fails to comply with the agreement, the contemnor shall be provided an opportunity for hearing, within ten days, to demonstrate why an order enjoining the contemnor from engaging in the exercise of any activity governed by a license should not be issued.

(3) The court order under this paragraph shall be vacated only after verification is provided to the court that the contemnor has satisfied all accrued obligations owing and that the contemnor has satisfied all terms established by the court and when the person entitled to receive support payments, or the child support recovery unit when the unit is providing enforcement services pursuant to chapter 252B, has been provided ten days' notice and an opportunity to object.

(4) As used in this paragraph, "license" means any license or renewal of a license, certification, or registration issued by an agency to a person to conduct a trade or business, including but not limited to a license to practice a profession or occupation or to operate a commercial motor vehicle.

Approved April 19, 1994

CHAPTER 1102

DRIVER EDUCATION AND MOTORCYCLE RIDER EDUCATION

H.F. 181

AN ACT relating to motorcycle rider and driver's education.

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

Section 1. Section 321.178, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An approved driver education course as programmed by the department of education shall consist of at least thirty clock hours of classroom instruction, and six or more clock hours of laboratory instruction of which at least three clock hours shall consist of street or highway driving. ~~An approved course~~ Classroom instruction shall include ~~a~~ all of the following:

a. A minimum of four hours of ~~classroom~~ instruction concerning substance abuse ~~as part of its curriculum~~.

b. A minimum of twenty minutes of instruction concerning railroad crossing safety.

c. Instruction relating to becoming an organ donor under the uniform anatomical gift Act.

PARAGRAPH DIVIDED. After the student has completed three clock hours of street or highway driving and has demonstrated to the instructor an ability to properly operate a motor vehicle and upon written request of a parent or guardian, the instructor may waive the remaining required laboratory instruction.

Sec. 2. Section 321.189, subsection 7, Code 1993, is amended to read as follows:

7. CLASS M LICENSE EDUCATION REQUIREMENTS. A person ~~under the age of eighteen~~ applying for a driver's license valid for the operation of a motorcycle shall be required to successfully complete a motorcycle education course either approved and established by the department of education or from a private or commercial driver education school licensed by the department before the class M license will be issued. A public school district shall charge a student a fee which shall not exceed the actual cost of instruction minus moneys received by the school district under subsection 9.

The requirement that an applicant complete a motorcycle education course prior to issuance of a driver's license under this subsection, does not apply to the following:

1. An operator who has been issued a class M license prior to July 1, 1994.

2. An operator who is renewing the operator's class M license issued prior to July 1, 1994.

3. An operator who has been issued a driver's license which is valid for the operation of a motorcycle in another state.

Sec. 3. The department of public health shall cooperate with the department of education to provide materials and information for driver's education courses which promote organ donation with the goal of increasing the number of potential organ donors.

Sec. 4. CONTINGENT EFFECTIVE DATE. The provisions of this Act which amend section 321.189, take effect May 1, 1995, or at such time as the department of education provides adequate training vehicles, instructors, curriculum materials, training sites, and program funding for training for all persons who are required to complete the motorcycle education course or for any person who would like to complete the motorcycle education course, whichever is earlier. The department of education shall notify the state department of transportation when the department of education has the resources available to effectively offer the motorcycle education course.

Approved April 25, 1994

CHAPTER 1103

CARE OF ANIMALS

H.F. 637

AN ACT relating to the care of animals including livestock, by prohibiting the neglect of animals, providing for the rescue, maintenance, and disposition of neglected animals, providing penalties, and providing for the repeal of sections and effective dates.

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

Section 1. Section 162.13, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~Failure~~ The failure of any pound, research facility, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder, public auction, or dealer, to adequately house, feed, or water dogs, cats, or vertebrate animals in the person's or facility's possession or custody is a simple misdemeanor. The animals are subject to seizure and impoundment and may be sold or destroyed as provided by rules which shall be adopted by the department pursuant to chapter 17A. The rules shall provide for the destruction of an animal by a humane method, including by euthanasia ~~at the discretion of the secretary and the~~. The failure to meet the requirements of this section is also ~~grounds~~ cause for revocation or suspension of license or registration after public hearing. The commission of an act declared to be an unlawful practice under section 714.16 or prohibited under chapter 717 or 717B, by a person ~~or facility~~ licensed

or registered under this chapter is ~~grounds~~ cause for revocation or suspension of the license or registration certificate. Dogs, cats, and other vertebrates upon which euthanasia is permitted by law may be destroyed by ~~persons or facilities~~ a person subject to this chapter or chapter 169, ~~and only~~ by a humane method, including euthanasia, as provided by rules which shall be adopted by the department pursuant to chapter 17A.

Sec. 2. NEW SECTION. 331.308 NEGLECTED ANIMALS.

A county may rescue, provide maintenance, or dispose of neglected livestock or another animal, as provided in chapters 717 and 717B.

Sec. 3. Section 331.653, subsection 21, Code 1993, is amended by striking the subsection.

Sec. 4. NEW SECTION. 364.22A NEGLECTED ANIMALS.

A city may rescue, provide maintenance, or dispose of neglected livestock or another animal, as provided in chapters 717 and 717B.

Sec. 5. Section 602.6405, subsection 1, Code 1993, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. Magistrates have jurisdiction to determine the disposition of livestock or another animal, as provided in sections 717.5 and 717B.4, if the magistrate determines the value of the livestock or animal is less than ten thousand dollars. Magistrates have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. Magistrates have jurisdiction over violations of section 123.49, subsection 2, paragraph "h". Magistrates who are admitted to the practice of law in this state have jurisdiction over all proceedings for the involuntary commitment, treatment, or hospitalization of individuals under chapters 125 and 229, except as otherwise provided under section 229.6A; nonlawyer magistrates have jurisdiction over emergency detention and hospitalization proceedings under sections 125.91 and 229.22. Magistrates have jurisdiction to conduct hearings authorized under section 809.4 and section 809.10, subsection 2.

Sec. 6. Section 670.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13. A claim based on an act or omission by a county or city pursuant to section 717.2A or chapter 717B relating to either of the following:

a. Rescuing neglected livestock or another animal by a law enforcement officer.

b. Maintaining or disposing of neglected livestock or another animal by a county or city.

Sec. 7. Section 717.1, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

717.1 DEFINITIONS.

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

1. "Law enforcement officer" means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and detection of crime and the enforcement of the criminal laws of this state.

2. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine, or porcine species or poultry.

3. "Livestock care provider" means a person designated by a local authority to provide care to livestock which is rescued by the local authority pursuant to section 717.2A.

4. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.

5. "Maintenance" means to provide on-site or off-site care to neglected livestock.

6. "Sustenance" means food, water, or a nutritional formulation customarily used in the production of livestock.

Sec. 8. NEW SECTION. 717.1A LIVESTOCK ABUSE.

A person is guilty of livestock abuse, if the person intentionally injures or destroys livestock owned by another person, in any manner, including, but not limited to, intentionally doing any of the following: administering drugs or poisons to the livestock, or disabling the livestock, by using a firearm or trap. A person guilty of livestock abuse commits an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the livestock, unless the action constitutes livestock neglect as provided in section 717.2.

2. A person acting to carry out an order issued by a court.

3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

4. A person acting in order to carry out another provision of law which allows the conduct.

5. A person reasonably acting to protect the person's property from damage caused by estray livestock.

6. A person reasonably acting to protect a person from injury or death caused by estray livestock.

7. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 9. Section 717.2, Code 1993, is amended to read as follows:

717.2 ~~CRUELTY TO ANIMALS~~ LIVESTOCK NEGLECT.

1. A person who impounds or confines livestock, in any place, a ~~domestic animal or fowl, or an animal or fowl subject to section 481A.60, or dog or cat,~~ and ~~fails to supply the animal during confinement with a sufficient quantity of food, and water, or who fails~~ does any of the following commits the offense of livestock neglect:

a. Fails to provide a ~~dog or cat~~ livestock with ~~adequate shelter, or who tortures, torments, deprives~~ care consistent with customary animal husbandry practices.

b. Deprives livestock of necessary sustenance, ~~mutilates, overdrives, overloads, drives when overloaded, beats,~~.

c. Injures or ~~kills an animal~~ destroys livestock by any means which ~~cause unjustified~~ causes pain, ~~distress,~~ or suffering, ~~whether intentionally or negligently, commits the offense of cruelty to animals~~ in a manner inconsistent with customary animal husbandry practices.

2. A person who commits the offense of ~~cruelty to animals~~ livestock neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of ~~cruelty to animals~~ livestock neglect which results in serious injury to or the death of ~~an animal~~ livestock is guilty of a serious misdemeanor. However, a person shall not be guilty of more than one offense of livestock neglect punishable as a serious misdemeanor, when care or sustenance is not provided to multiple head of livestock during any period of uninterrupted neglect.

3. This section does not apply to an institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 10. NEW SECTION. 717.2A RESCUE OF NEGLECTED LIVESTOCK.

1. a. A law enforcement officer may rescue livestock neglected as provided in section 717.2 on public or private property, as provided in this subsection.

b. The officer may enter onto property of a person to rescue neglected livestock if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

c. Livestock neglected as provided in section 717.2 may be rescued pursuant to the following conditions:

(1) If a criminal proceeding has not been commenced against the person owning or caring for the livestock, the following shall apply:

(a) The local authority shall receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(b) The local authority shall provide written notice to the person owning or caring for the livestock by delivery at the last known address of the person. The local authority shall deliver the notice by certified mail or make a good faith effort to personally deliver the notice to the person owning or caring for the livestock. The notice shall include all of the following:

(i) The name and address of the local authority.

(ii) A description of the livestock subject to rescue.

(iii) A statement informing the person that the livestock may be rescued pursuant to this chapter within one day following receipt of the notice by the person. The statement must specify a date, time, and a location for delivery of the response designated by the local authority, as provided in this subsection.

(iv) A statement informing the person that in order to avoid rescue of the livestock, the person must respond to the notice in writing signed by a veterinarian licensed pursuant to chapter 169. The veterinarian must state that, in the opinion of the veterinarian, the livestock is not neglected, or the person is taking immediate measures required to rehabilitate the livestock.

(c) A law enforcement officer may rescue the livestock, if the local authority fails to receive a written response by the person owning or caring for the livestock by the end of normal office hours of the next day that the local authority is available to receive the response at the offices of the local authority. However, if the local authority is not available to receive a response at its offices, the local authority may designate another location in the county to receive the response.

(2) If a criminal proceeding has been commenced against the person owning or caring for the livestock, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that, in the veterinarian's opinion, the livestock is neglected.

(3) Regardless of whether a criminal proceeding has commenced, the local authority may immediately rescue livestock without providing notice as otherwise required in this section. However, the local authority must receive a written statement from a veterinarian licensed pursuant to chapter 169, providing that in the veterinarian's opinion, the livestock is neglected. In order to rescue the livestock, the local authority must determine that the livestock has been abandoned or that no person is able or willing to care for the livestock, and the livestock is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

2. If livestock is rescued pursuant to this section, the local authority shall post a notice in a conspicuous place at the location where the livestock was rescued. The notice shall state that the livestock has been rescued by the local authority pursuant to this section. The local authority shall provide for the maintenance of the neglected livestock. The local authority may contract with a livestock care provider for the maintenance of the neglected livestock. The local authority shall pay the livestock care provider for the livestock's maintenance regardless of proceeds received from the sale of the livestock or any reimbursement ordered by a court, pursuant to section 717.5.

3. The livestock shall be subject to disposition pursuant to section 717.5.

Sec. 11. Section 717.5, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

717.5 DISPOSITION OF NEGLECTED LIVESTOCK.

1. A court shall order the disposition of livestock neglected as provided in section 717.2 after a hearing upon application or petition to the court by a local authority or a person owning or caring for the livestock. The matter shall be heard within ten days from the filing of a petition by the local authority or the person. The court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide for the maintenance of the livestock for forty days. The court

may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security. However, the court shall order the immediate disposition of the livestock if the livestock is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if livestock has been neglected for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717.2.

3. A court may order a person owning the neglected livestock to pay an amount which shall not be more than the expenses incurred in maintaining the neglected livestock rescued pursuant to section 717.2A, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to this section shall be used to reimburse the local authority. If more than one person has a divisible interest in the livestock, the amount required to be paid shall be prorated based on the percentage of interest in the livestock owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds owed to the owner or owners of the livestock, which are received from the sale of the livestock ordered by the court. Moneys owed to the local authority from the sale of neglected livestock shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the livestock. If an owner of the livestock is a landowner, the local authority may submit an amount to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the livestock. If the livestock owner owns a percentage of the livestock, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the livestock. That amount shall be prorated among the landowners based on the percentage of interest in the livestock attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. Neglected livestock ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.

Sec. 12. NEW SECTION. 717B.1 ANIMAL DEFINED.

As used in this chapter:

1. "Animal" means a nonhuman vertebrate. However, "animal" does not include any of the following:

a. Livestock, as defined in section 717.1.

b. Any game, fur-bearing animal, fish, reptile, or amphibian, as defined in section 481A.1, unless a person owns, confines, or controls the game, fur-bearing animal, fish, reptile, or amphibian.

c. Any nongame species declared to be a nuisance pursuant to section 481A.42.

2. "Animal care provider" means a person designated by a local authority to provide care to an animal which is rescued by the local authority pursuant to section 717B.5.

3. "Law enforcement officer" means a regularly employed member of a police force of a city or county, including a sheriff, who is responsible for the prevention and dedication of crime and the enforcement of the criminal laws of this state.

4. "Maintenance" means to provide on-site or off-site care to neglected animals.

5. "Local authority" means a city as defined in section 362.2 or a county as provided in chapter 331.

Sec. 13. NEW SECTION. 717B.2 ANIMAL ABUSE.

A person is guilty of animal abuse if the person intentionally injures, maims, disfigures, or destroys an animal owned by another person, in any manner, including intentionally poisoning the animal. A person guilty of animal abuse is guilty of an aggravated misdemeanor. This section shall not apply to any of the following:

1. A person acting with the consent of the person owning the animal, unless the action constitutes animal neglect as provided in section 717B.3.

2. A person acting to carry out an order issued by a court.

3. A licensed veterinarian practicing veterinary medicine as provided in chapter 169.

4. A person acting in order to carry out another provision of law which allows the conduct.

5. A person taking, hunting, trapping, or fishing for a wild animal as provided in chapter 481A.

6. A person acting to protect the person's property from a wild animal as defined in section 481A.1.

7. A person acting to protect a person from injury or death caused by a wild animal as defined in section 481A.1.

8. A person reasonably acting to protect the person's property from damage caused by an unconfined animal.

9. A person reasonably acting to protect a person from injury or death caused by an unconfined animal.

10. A local authority reasonably acting to destroy an animal, if at the time of the destruction, the owner of the animal is absent or unable to care for the animal, and the animal is permanently distressed by disease or injury to a degree that would result in severe and prolonged suffering.

11. An institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

Sec. 14. NEW SECTION. 717B.3 ANIMAL NEGLECT.

1. A person who impounds or confines, in any place, an animal is guilty of animal neglect, if the person does any of the following: fails to supply the animal during confinement with a sufficient quantity of food or water; fails to provide a confined dog or cat with adequate shelter; or tortures, deprives of necessary sustenance, mutilates, beats, or kills an animal by any means which causes unjustified pain, distress, or suffering.

2. This section does not apply to an institution, as defined in section 145B.1, or a research facility, as defined in section 162.2, provided that the institution or research facility performs functions within the scope of accepted practices and disciplines associated with the institution or research facility.

3. A person who negligently or intentionally commits the offense of animal neglect is guilty of a simple misdemeanor. A person who intentionally commits the offense of animal abuse* which results in serious injury to or the death of an animal is guilty of a serious misdemeanor.

Sec. 15. NEW SECTION. 717B.4 DISPOSITION OF NEGLECTED ANIMALS.

1. A court shall order the disposition of an animal neglected as provided in section 717B.3 after a hearing upon application or petition to the court by a local authority or the person owning or caring for the animal. The matter shall be heard within ten days from the filing of the petition. The court may continue the hearing for up to forty days upon petition by the person. However, the person shall post a bond or other security with the local authority in an amount determined by the court, which shall not be more than the amount sufficient to provide maintenance of the animal for forty days. The court may grant a subsequent continuance by the person for the same length of time if the person submits a new bond or security. However, the court shall order the immediate disposition of the animal if the animal is permanently distressed by disease or injury to a degree that would result in severe or prolonged suffering.

2. The hearing to determine if the animal has been neglected for purposes of disposition shall be a civil proceeding. If the case is related to a criminal proceeding, the disposition shall not be part of that proceeding and shall not be considered a criminal penalty imposed on a person found in violation of section 717B.3.

3. A court may order a person owning the neglected animal to pay an amount which shall not be more than the expenses incurred in maintaining the neglected animal rescued pursuant

*Term "neglect" probably intended.

to section 717B.5, and reasonable attorney fees and expenses related to the investigation of the case. The remaining amount of a bond or other security posted pursuant to this chapter shall be used to reimburse the local authority. If more than one person has a divisible interest in the animal, the amount required to be paid shall be prorated based on the percentage of interest in the animal owned by each person. The moneys shall be paid to the local authority incurring the expense. The amount shall be subtracted from proceeds owed to the owner or owners of the animal, which are received from the sale of the animal ordered by the court. Moneys owed to the local authority from the sale of a neglected animal shall be paid to the local authority before satisfying indebtedness secured by any security interest in or lien on the animal. If an owner of the animal is a landowner, the local authority may submit an amount to the clerk of the county board of supervisors who shall report the amount to the county treasurer. The amount shall equal the balance remaining after the sale of the animal. If the animal owner owns a percentage of the animal, the reported amount shall equal the remaining balance owed by all landowners who own a percentage of the animal. That amount shall be prorated among the landowners based on the percentage of interest in the animal attributable to each landowner. The amount shall be placed upon the tax books, and collected with interest and penalties after due, in the same manner as other unpaid property taxes. The county shall reimburse a city within thirty days from the collection of the property taxes.

4. Neglected animals ordered to be destroyed shall be destroyed only by a humane method, including euthanasia as defined in section 162.2.

Sec. 16. NEW SECTION. 717B.5 RESCUE OF NEGLECTED ANIMALS.

1. A law enforcement officer, after consulting with a veterinarian licensed pursuant to chapter 169, may rescue an animal neglected as provided in section 717B.3 on public or private property, as provided in this subsection. The officer may enter onto property of a person to rescue a neglected animal, if the officer obtains a search warrant issued by a court, or enters onto the premises in a manner consistent with the laws of this state and the United States, including Article I, section 8, of the Constitution of the State of Iowa, or the fourth amendment to the Constitution of the United States.

2. If an animal is rescued pursuant to this section, the local authority shall provide for the maintenance of the neglected animal. The local authority may contract with an animal care provider for the maintenance of the neglected animal. The local authority shall post a notice in a conspicuous place at the location where the animal was rescued. The notice shall state that the animal has been rescued by the local authority pursuant to this section. The local authority shall pay the animal care provider for the animal's maintenance regardless of proceeds received from the sale of the animal or any reimbursement ordered by a court, pursuant to section 717B.4.

3. The animal shall be subject to disposition as required by a court, pursuant to section 717B.4.

Sec. 17. NEW SECTION. 717B.5A DISABLED ANIMALS DESTROYED.

A person may humanely destroy a wild animal as defined in section 481A.1, if the wild animal is permanently distressed by injury or disease to a degree that results in severe and prolonged suffering. The destroyed animal shall be subject to disposition as provided by rules adopted by the natural resource commission pursuant to chapter 17A.

Sec. 18. NEW SECTION. 717B.6 EXHIBITIONS AND FIGHTS.

A person shall not arrange, promote, or stage an exhibition at which an animal is tormented, or in which there is a fight between animals or between a person and an animal. A person shall not maintain an establishment where such an exhibition is conducted. A person violating this section is guilty of a serious misdemeanor.

Sec. 19. NEW SECTION. 717B.7 ABANDONMENT OF CATS AND DOGS — PENALTIES.

A person who has ownership or custody of a cat or dog shall not abandon the cat or dog, except the person may deliver the cat or dog to another person who will accept ownership

and custody or the person may deliver the cat or dog to an animal shelter or pound as defined in section 162.2. A person who violates this section is guilty of a simple misdemeanor.

Sec. 20. NEW SECTION. 717B.8 INJURY OR INTERFERENCE WITH A POLICE SERVICE DOG.

1. A person who knowingly, and willfully or maliciously torments, strikes, administers a nonpoisonous desensitizing substance to, or otherwise interferes with a police service dog, without inflicting serious injury on the dog, commits a simple misdemeanor.

2. A person who knowingly, and willfully or maliciously tortures, injures so as to disfigure or disable, kills, or administers poison to a police service dog, commits a serious misdemeanor.

3. As used in this section, "police service dog" means a dog used by a peace officer in the performance of the officer's duties, whether or not the dog is on duty.

4. This section does not apply to a peace officer or veterinarian who terminates the life of such a dog for the purpose of relieving the dog of undue pain or suffering, or to a person who justifiably acts in defense of self or another.

Sec. 21. RULES REQUIRED – DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP. The department of agriculture and land stewardship shall adopt rules as provided in section 162.13 as amended by this Act not later than August 30, 1994. The department shall not use the procedures set out in section 17A.4, subsection 2, or section 17A.5, subsection 2, paragraph "b" to meet this deadline.

Sec. 22. EFFECTIVE DATE. Sections 1, 21, and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 23. REPEALS. Sections 169B.49, 717.3, 717.4, and 717.6, Code 1993, are repealed.

Approved April 25, 1994

CHAPTER 1104

NATURAL RESOURCES MOTOR VEHICLE REGISTRATION PLATES

H.F. 2099

AN ACT providing for special natural resources motor vehicle registration plates and providing an effective date.

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

Section 1. Section 321.34, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 17. NATURAL RESOURCES PLATES.

a. Upon application and payment of the proper fees, the director may issue natural resources plates to the owner of a motor vehicle subject to registration under section 321.109, subsection 1, light delivery truck, panel delivery truck, pickup, motor home, multipurpose vehicle, or travel trailer.

b. Natural resources plates shall be designed by the department in cooperation with the department of natural resources which design shall include on the plate the name of the county where the vehicle is registered.

c. The special natural resources fee for letter number designated natural resources plates is thirty-five dollars. The fee for personalized natural resources plates is forty-five dollars which shall be paid in addition to the special natural resources fee of thirty-five dollars. The fees collected by the director under this subsection shall be paid monthly to the treasurer of state

and credited to the road use tax fund. Notwithstanding section 423.24, and prior to the crediting of revenues to the road use tax fund under section 423.24, subsection 1, paragraph "d", the treasurer of state shall credit monthly from those revenues to the Iowa resources enhancement and protection fund created pursuant to section 455A.18, the amount of the special natural resources fees collected in the previous month for the natural resources plates.

d. Upon receipt of the special registration plates, the applicant shall surrender the current registration receipt and plates to the county treasurer. The county treasurer shall validate the special registration plates in the same manner as regular registration plates are validated under this section. The annual special natural resources fee for letter number designated plates is ten dollars which shall be paid in addition to the regular annual registration fee. The annual fee for personalized natural resources plates is five dollars which shall be paid in addition to the annual special natural resources fee and the regular annual registration fee. The annual special natural resources fee shall be credited as provided under paragraph "c".

Sec. 2. This Act takes effect on January 1, 1995.

Approved April 25, 1994

CHAPTER 1105

ALCOHOLIC BEVERAGES — ACCESS AND POSSESSION BY UNDERAGE PERSONS

H.F. 2146

AN ACT relating to access to, and the possession of, alcoholic beverages, and subjecting violators to existing penalties.

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

Section 1. Section 123.47, Code 1993, is amended to read as follows:

123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and a person or persons under the age of eighteen shall not individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

Sec. 2. Section 123.47A, subsection 1, Code 1993, is amended to read as follows:

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age eighteen, nineteen, or twenty. A person age eighteen, nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge, presence, and consent of the person's parent or guardian, and a person age eighteen, nineteen, or twenty may handle alcoholic liquor, wine, and beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee. A person, other than a licensee or permittee, who commits a first offense under this section commits a scheduled violation of section 805.8, subsection 10. A person, other than a licensee or permittee, who commits a

second or subsequent violation of this section, commits a simple misdemeanor. A licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is guilty of a simple misdemeanor punishable by a fine of not more than fifty dollars. The penalty provided under this section against a licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is the only penalty which shall be imposed against a licensee or permittee who violates this section. A licensee or permittee who violates this section with respect to a person who is age eighteen commits a simple misdemeanor, and is subject to the criminal and civil penalties provided pursuant to sections 123.49 and 123.50 with respect to selling, giving, or otherwise supplying alcoholic beverages, liquor, wine, or beer to persons under legal age.

Sec. 3. NEW SECTION. 123.47C SEIZURE OF FALSE OR ALTERED MOTOR VEHICLE LICENSE OR NONOPERATOR IDENTIFICATION CARD.

1. If a liquor control licensee or wine or beer permittee or an employee of the licensee or permittee has a reasonable belief based on factual evidence that a motor vehicle license as defined in section 321.1, subsection 43, or nonoperator identification card issued pursuant to section 321.190 offered by a person who wishes to purchase an alcoholic beverage at the licensed premises is altered or falsified or belongs to another person, the licensee, permittee, or employee may retain the motor vehicle license or nonoperator identification card. Within twenty-four hours, the card shall be delivered to the appropriate city or county law enforcement agency of the jurisdiction in which the licensed premises is located. When the card is delivered to the appropriate law enforcement agency, the licensee shall file a written report of the circumstances under which the card was retained. The local law enforcement agency may investigate whether a violation of section 321.190, 321.216, or 321.216B has occurred. If an investigation is not initiated or a probable cause is not established by the local law enforcement agency, the motor vehicle license or nonoperator identification card shall be delivered to the person to whom it was issued. The local law enforcement agency may forward the card with the report to the department of transportation for investigation, in which case, the department may investigate whether a violation of section 321.190, 321.216, or 321.216B has occurred. The department of transportation shall return the card to the person to whom it was issued if an investigation is not initiated or a probable cause is not established.

2. Upon taking possession of an identification card as provided in subsection 1, a receipt for the card with the date and hour of seizure noted shall be provided to the person from whom the card was seized.

3. A liquor control licensee or wine or beer permittee or an employee of the licensee or permittee is not subject to criminal prosecution for, or to civil liability for damages alleged to have resulted from, the retention and delivery of a motor vehicle license or a nonoperator identification card which is taken pursuant to subsections 1 and 2. This section shall not be construed to relieve a licensee, permittee, or employee of the licensee or permittee from civil liability for damages resulting from the use of unreasonable force in obtaining the altered or falsified motor vehicle license or identification card or the motor vehicle license or identification card believed to belong to another person.

Approved April 25, 1994

CHAPTER 1106

FARM MEDIATION AND LEGAL ASSISTANCE TO FARMERS

S.F. 2066

AN ACT providing for the effectiveness of provisions relating to farm assistance programs, including provisions authorizing the attorney general to contract with organizations to provide mediation services and legal assistance to farmers.

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

Section 1. REPEALS OF CODIFIED SECTIONS. Sections 13.25, 654A.17, and 654B.12, Code Supplement 1993, are repealed.

Sec. 2. REPEALS OF UNCODIFIED SECTIONS.

1. 1990 Iowa Acts, chapter 1143, sections 28 and 29, are repealed.
2. 1993 Iowa Acts, chapter 29, section 4, is repealed.
3. 1993 Iowa Acts, chapter 171, section 23, is repealed.

Sec. 3. ELIMINATION OF EFFECTIVE DATE FOR UNCODIFIED REPEALING SECTIONS. 1990 Iowa Acts, chapter 1143, section 32, subsection 2, is amended by striking the subsection.

Approved April 25, 1994

CHAPTER 1107

SUBSTANTIVE CODE CORRECTIONS

S.F. 2086

AN ACT relating to statutory corrections which may adjust language to reflect current practices, insert earlier omissions, delete redundancies and inaccuracies, delete temporary language, resolve inconsistencies and conflicts, update ongoing provisions, or remove ambiguities.

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

DIVISION I — RESUBMISSIONS

Section 1. Section 7A.3, unnumbered paragraph 3, Code Supplement 1993, is amended to read as follows:

The officials and departments required by this section to file reports shall submit the reports on standardized forms furnished by the director of ~~revenue and finance~~ the department of management. All officials and agencies submitting reports shall consult with ~~the director of revenue and finance and~~ the director of the department of management, and shall devise standardized report forms for submission to the governor and members of the general assembly.

Sec. 2. Section 15.283, subsection 4, Code 1993, is amended to read as follows:

4. Moneys available under this program for the traditional infrastructure category, the new infrastructure category, and the planning category shall be allocated by the director. ~~Annually, not more than~~ The director may allocate up to three hundred thousand dollars of the funds for the program ~~shall be allocated for~~ annually to the planning category.

PARAGRAPH DIVIDED. Moneys available under this program for the housing category shall be allocated by the executive director of the Iowa finance authority who may transfer a portion of the moneys to the department for the planning category. If moneys allocated to

the housing category are not used or dedicated by April 1 of the fiscal year, the moneys shall be reallocated to the other categories that have the most need as determined by the department.

PARAGRAPH DIVIDED. At least one-third of the moneys allocated for the traditional infrastructure category, the new infrastructure category, and the housing category shall be set aside for cities with populations of five thousand or less. For the purposes of this set-aside, a city located in a county with a population in excess of three hundred thousand, if the city is contiguous to another city in the county and that other city is contiguous to the largest city in that county, shall be considered as having a population in excess of five thousand.

Sec. 3. Section 35A.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12. Provide training to executive directors of county commissions of veteran affairs pursuant to section 35B.6. The commission may adopt rules in accordance with chapter 17A to provide for training of county veteran affairs executive directors.

Sec. 4. Section 35B.6, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. Upon the employment of an executive director, the executive director shall complete a course of initial training provided by the ~~veterans affairs division of the department of public defense pursuant to section 29.4~~ commission of veterans affairs pursuant to section 35A.3. If an executive director is not appointed, a commissioner or a clerical assistant shall complete the course of training. The ~~division~~ commission shall issue the executive director, commissioner, or clerical assistant a certificate of training after completion of the initial training course. To maintain annual certification, the executive director, commissioner, or clerical assistant shall attend one ~~division~~ commission training course each year. Failure to maintain certification may be cause for removal from office. The expenses of training shall be paid from the appropriation authorized in section 35B.14.

Sec. 5. Section 87.11D, Code 1993, is amended to read as follows:

87.11D PAYMENT OF EXAMINATION EXPENSES BY THE SELF-INSURED EMPLOYER.

The commissioner of insurance, upon the completion of an examination, or at such regular intervals prior to completion as the commissioner determines, shall prepare an account of the costs incurred in performing and preparing the report of such examinations which shall be charged to and paid by the self-insured employer examined, and upon failure or refusal of any self-insured employer to pay such a charge, the amount of the charge may be recovered in an action brought in the name of the state, and the commissioner may also revoke the employer's exemption under section 87.11. All fees collected in connection with an examination shall be paid into the ~~insurance division revolving~~ general fund.

Sec. 6. Section 99D.15, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. If the rate of tax imposed under paragraph "a" is six percent, five percent, or four percent, a licensee shall set aside for retiring any debt of the licensee, for capital improvement to the facilities of the licensee, for funding of possible future operating losses, or for charitable giving, the following amount:

(1) If the rate of tax paid by the ~~track~~ licensee is six percent, one-sixth of the tax liability by the ~~track~~ licensee during the racing season shall be set aside.

(2) If the rate of tax paid by the licensee is five percent, one percent of the gross sum wagered in the racing season shall be set aside.

(3) If the rate of tax paid by the licensee is four percent, two percent of the gross sum wagered in the racing season shall be set aside.

Sec. 7. Section 124.401, subsection 1, paragraph d, Code 1993, is amended to read as follows:

d. Violation of this subsection, with respect to any other controlled substances, counterfeit substances, or simulated controlled substances classified in schedule IV or V is an aggravated misdemeanor. However, violation of this subsection involving ~~less than~~ fifty kilograms or less of marijuana, is a class "D" felony, and in addition to the provisions of section 902.9, subsection 4, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars.

Sec. 8. Section 161A.42, subsection 11, Code 1993, is amended to read as follows:

11. "Soil loss limit" means the maximum amount of soil loss due to erosion by water or wind, expressed in terms of tons per acre per year, which the commissioners of the respective soil and water conservation districts determine is acceptable in order to meet the objectives expressed in section ~~467D.1~~ 161A.2.

Sec. 9. Section 218.86, Code 1993, is amended to read as follows:

218.86 ABSTRACT OF CLAIMS.

~~When vouchers~~ Vouchers for expenditures other than salaries ~~have been duly audited as provided for in section 421.31 said audited vouchers~~ shall be submitted to the director of revenue and finance, who shall ~~therefrom~~ prepare in triplicate an abstract of claims submitted showing the name of the claimant~~,~~ and the institutions and institutional fund ~~thereof~~ on account of which the payment is made. ~~Said~~ The claims and abstracts of claims shall ~~then~~ be returned to ~~such~~ the director of the department of human services where the correctness of ~~said~~ the abstracts shall ~~then~~ be certified by the director. The original abstract shall ~~then~~ be delivered to the director of revenue and finance, the duplicate to be retained in the office of ~~such~~ the director of the department of human services and the triplicate forwarded to the proper institution to be retained ~~there~~ as a record of claims paid.

Sec. 10. Section 421.31, subsection 9, Code 1993, is amended by striking the subsection.

Sec. 11. Section 422.4, subsection 1, paragraph d, Code 1993, is amended to read as follows:

d. Notwithstanding the computation of the annual inflation factor under paragraph "a", the annual inflation factor is one hundred percent for any calendar year in which the unobligated state general fund balance on June 30 as certified by the director of ~~revenue and finance~~ the department of management by October 10, is less than sixty million dollars.

Sec. 12. Section 422A.2, subsections 1 and 2, Code 1993, are amended to read as follows:

1. There is created in the ~~office of the treasurer of state~~ department of revenue and finance a local transient guest tax fund which shall consist of all moneys credited to such fund under section 422A.1.

2. All moneys in the local transient guest tax fund shall be remitted at least quarterly by the ~~treasurer of state~~ department of revenue and finance, pursuant to rules of the director of revenue and finance, to each city in the amount collected from businesses in that city and to each county in the amount collected from businesses in the unincorporated areas of the county.

Sec. 13. Section 542B.2, unnumbered paragraph 3, Code 1993, is amended to read as follows:

The term ~~"engineer-in-training"~~ "engineer intern" as used in this chapter ~~shall mean~~ means a person who passes an examination in the fundamental engineering subjects, but ~~shall~~ does not entitle the person to claim to be a professional engineer.

Sec. 14. Section 542B.14, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. Successfully passing a written, oral, or written and oral examination in fundamental engineering subjects which is designed to show the knowledge of general engineering principles. A person passing the examination in fundamental engineering subjects ~~will be~~ is entitled to a certificate as an ~~engineer-in-training~~ engineer intern.

Sec. 15. Section 713.3, Code 1993, is amended to read as follows:

713.3 BURGLARY IN THE FIRST DEGREE.

A person commits burglary in the first degree if, while perpetrating a burglary in or upon an occupied structure in which one or more persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts bodily injury on any person. Burglary in the first degree is a class "B" felony.

Sec. 16. Section 713.4, Code 1993, is amended to read as follows:

713.4 ATTEMPTED BURGLARY IN THE FIRST DEGREE.

A person commits attempted burglary in the first degree if, while perpetrating an attempted burglary in or upon an occupied structure in which one or more persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or intentionally or recklessly inflicts bodily injury on any person. Attempted burglary in the first degree is a class "C" felony.

Sec. 17. Section 713.5, Code 1993, is amended to read as follows:

713.5 BURGLARY IN THE SECOND DEGREE.

A person commits burglary in the second degree in either of the following circumstances:

1. While perpetrating a burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

2. While perpetrating a burglary in or upon an occupied structure in which one or more persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

Burglary in the second degree is a class "C" felony.

Sec. 18. Section 713.6, Code 1993, is amended to read as follows:

713.6 ATTEMPTED BURGLARY IN THE SECOND DEGREE.

A person commits attempted burglary in the second degree in either of the following circumstances:

1. While perpetrating an attempted burglary in or upon an occupied structure in which no persons are present, the person has possession of an explosive or incendiary device or material, or a dangerous weapon, or a bodily injury results to any person.

2. While perpetrating an attempted burglary in or upon an occupied structure in which one or more persons are present, the person does not have possession of an explosive or incendiary device or material, nor a dangerous weapon, and no bodily injury is caused to any person.

Attempted burglary in the second degree is a class "D" felony.

DIVISION II – NEW SUBMISSIONS

Sec. 19. Section 2B.12, subsection 7, paragraph a, Code 1993, is amended to read as follows:

a. All of the statutes of Iowa of a general and permanent nature which were enacted or amended during that session, except as provided in subsection 3, and an indication of all sections repealed during that session, and any amendments to the Constitution of the State of Iowa ~~passed by the general assembly in that session~~ approved by the voters at the preceding general election.

Sec. 20. Section 13B.4, subsection 6, Code Supplement 1993, is amended to read as follows:

6. The state public defender shall report in writing to the general assembly on January 20 of each year regarding any funds recouped or collected for court-appointed attorney fees or expenses of a public defender pursuant to section 331.756, subsection ~~86~~ 5, or section 602.8107 during the previous calendar year.

Sec. 21. Section 321L.5, subsection 2, Code 1993, is amended to read as follows:

2. A handicapped parking space designated after July 1, 1990, shall ~~be in accordance~~ comply with the dimension requirements ~~of 36 C.F.R. § 1190.31~~ specified in rules adopted by the department of public safety and in effect when the spaces are designated. The department shall adopt accepted national standards for dimensions of handicapped spaces, consistent with the requirements of federal law. However, these dimension requirements do not apply to parallel on-street parking spaces.

Sec. 22. Section 421.17, subsection 1, Code Supplement 1993, is amended to read as follows:

1. To have and exercise general supervision over the administration of the assessment and tax laws of the state, over boards of supervisors and all other officers or boards ~~of assessment~~

~~and levy~~ in the performance of their official duties~~,~~ in all matters relating to assessments and taxation, to the end that all assessments of property and taxes levied ~~thereon~~ on the property be made relatively just and uniform in substantial compliance with the law.

Sec. 23. Section 421.17, subsection 2, unnumbered paragraphs 2 and 3, Code Supplement 1993, are amended to read as follows:

The director may order the reassessment of all or part of the property in any ~~taxing district~~ assessing jurisdiction in any year. Such reassessment shall be made by the local assessor according to law under the direction of the director and the cost ~~thereof~~ of making the assessment shall be paid in the same manner as the cost of making an original assessment.

The director shall determine the degree of uniformity of valuation as between the various ~~taxing districts~~ assessing jurisdictions of the state and shall have the authority to employ competent personnel for the purpose of performing this duty.

Sec. 24. Section 421.17, subsections 15 and 17, Code Supplement 1993, are amended by striking the subsections.

Sec. 25. Section 421.20, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The director of revenue and finance may bring actions of mandamus or injunction or any other proper actions in the district court to compel the performance of any order made by the director or to require any board ~~of equalization~~ or any other officer or person to perform any duty required by this chapter. The director shall commence an action only in the district court in the county in which the defendant or defendants in the action perform their official duties.

Sec. 26. Section 422.35, subsection 9, Code 1993, is amended by striking the subsection.

Sec. 27. Section 422.42, subsection 12, unnumbered paragraph 2, Code 1993, is amended to read as follows:

For the purposes of this subsection, the sale of carpeting is not a sale of building materials. The sale of carpeting to owners, contractors, subcontractors, or builders shall be treated as the sale of ordinary tangible personal property and subject to the tax imposed under section 422.43, subsection 1, and the tax imposed under section 423.2.

Sec. 28. Section 423.1, subsection 8, Code Supplement 1993, is amended to read as follows:

8. "Retailer maintaining a place of business in this state" or any like term 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 the retailer or subsidiary is admitted to do business within this state pursuant to chapter 490.

Sec. 29. Section 423.22, Code Supplement 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 490, 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. 30. Section 499.45, Code Supplement 1993, is amended to read as follows:

499.45 FEES.

~~The following fees~~ A fee of twenty dollars shall be paid to the secretary of state:

~~1. Upon~~ upon filing articles of incorporation, amendments, or renewals ~~thereof, ten dollars for authorized capital stock up to twenty-five thousand dollars, and one dollar per one thousand dollars or fraction in excess thereof; or ten dollars if there be no capital stock.~~

~~2. Upon filing amendments, one dollar, and if authorized capital stock is increased to an amount exceeding twenty-five thousand dollars, an additional fee of one dollar per thousand dollars or fraction of such excess.~~

~~3. Upon filing all articles, renewals, or amendments, a recording fee of fifty cents per page.~~

Sec. 31. Section 554.9403, subsection 5, Code Supplement 1993, is amended to read as follows:

5. The uniform fee for filing and indexing and for stamping a copy furnished by the secured party to show the date and place of filing shall be 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.

b. Ten dollars for a continuation statement if the statement is in the standard form prescribed by the secretary of state, and otherwise twelve dollars. However, if the continuation 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.

DIVISION III — H.F. 669* COORDINATING AMENDMENTS

Sec. 32. Section 8.60, Code Supplement 1993, is amended to read as follows:

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, Code Supplement 1993.
2. Gamblers assistance fund pursuant to section 99E.10, subsection 1, Code Supplement 1993.
3. Excursion boat gambling special account pursuant to section 99F.4, subsection 2, Code Supplement 1993.
4. Milk fund created in section 192.111, Code Supplement 1993.
5. Dairy trade practices trust fund pursuant to section 192A.30, Code Supplement 1993.
6. Commercial feed fund created in section 198.9, Code Supplement 1993.
7. Fertilizer fund created in section 200.9, Code Supplement 1993.
8. Pesticide fund created in section 206.12, Code Supplement 1993.
9. Motor vehicle fraud account pursuant to section 312.2, subsection 13, Code Supplement 1993.

*1993 Iowa Acts, chapter 131

10. Public transit assistance fund pursuant to section 312.2, subsection 15, and section 324A.6, Code Supplement 1993.

11. Salvage vehicle fee paid to the Iowa law enforcement academy pursuant to section 321.52, Code Supplement 1993.

12. Railroad assistance fund created in section 327H.18, Code Supplement 1993.

13. Special railroad facility fund created in section 327I.23, Code Supplement 1993.

14. State aviation fund created in section 328.36, Code Supplement 1993.

15. Marine fuel tax fund created in section 452A.79, Code Supplement 1993.

16. Public outdoor recreation and resources fund pursuant to section 461A.79, Code Supplement 1993.

17. Energy research and development ~~account~~ fund created in section 473.11, Code Supplement 1993.

18. Utilities trust fund created in section 476.10, Code Supplement 1993.

19. Banking revolving fund created in section 524.207, Code Supplement 1993.

20. Credit union revolving fund created in section 533.67, Code Supplement 1993.

21. Professional licensing revolving fund created in section 546.10, Code Supplement 1993.

~~22. Administrative services trust fund created in section 546.11.~~

Sec. 33. Section 99D.17, Code Supplement 1993, is amended to read as follows:

99D.17 USE OF FUNDS.

Funds received pursuant to sections 99D.14 and 99D.15 shall be deposited in the ~~pari-mutuel regulation fund created in the racing and gaming commission~~ general fund of the state and shall be subject to the requirements of section 8.60. These funds shall first be used to the extent appropriated by the general assembly. ~~The remainder shall be transferred to the treasurer of state to be deposited in the general fund of the state.~~ The commission is subject to the budget requirements of chapter 8 and the applicable auditing requirements and procedures of chapter 11.

~~Notwithstanding the provisions of this section directing that funds received be deposited into the pari-mutuel regulation fund, beginning on July 1, 1991, all funds received shall be deposited into the general fund of the state.~~

Sec. 34. Section 99E.10, subsection 1, paragraph a, Code Supplement 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

a. An amount equal to one-half of one percent of the gross lottery revenue shall be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. In each fiscal year the first seven hundred fifty thousand dollars of the moneys under this paragraph shall be appropriated to and shall be administered by the director of human services and used to provide assistance and counseling to individuals and families experiencing difficulty as a result of gambling losses and to promote awareness of "gamblers anonymous" and similar assistance programs.

Sec. 35. Section 99F.4, subsection 2, Code Supplement 1993, is amended to read as follows:

2. To license qualified sponsoring organizations, to license the operators of excursion gambling boats, to identify occupations within the excursion gambling boat operations which require licensing, and to adopt standards for licensing the occupations including establishing fees for the occupational licenses and licenses for qualified sponsoring organizations. The fees shall be paid to the commission and deposited in ~~a special account of~~ the general fund of the state. All revenue received by the commission under this chapter from license fees and admission fees shall be deposited in ~~the special account in~~ the general fund of the state and shall be subject to the requirements of section 8.60.

~~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, beginning on July 1, 1991, all fees shall be deposited into the general fund of the state.~~

Sec. 36. Section 99F.11, subsection 3, Code 1993, is amended to read as follows:

3. Three percent of the adjusted gross receipts shall be deposited in the ~~gamblers assistance fund specified in section 99E.10, subsection 1, paragraph "a"~~ general fund of the state and shall be subject to the requirements of section 8.60.

Sec. 37. Section 99F.17, subsection 1, Code 1993, is amended to read as follows:

1. A manufacturer or distributor of gambling games or implements of gambling shall annually apply for a license upon a form prescribed by the commission before the first day of April in each year and shall submit the appropriate license fee. An applicant shall provide the necessary information as the commission requires. The license fee for a distributor is one thousand dollars, and the license fee for a manufacturer is two hundred fifty dollars. The license fees shall be credited to the ~~special account~~ general fund of the state as provided for in section 99F.4, subsection 2.

Sec. 38. Section 192.111, subsection 3, Code Supplement 1993, is amended to read as follows:

3. a. Fees collected under this section and ~~moneys appropriated to the department for dairy control shall be deposited in the milk fund which is established in the office of the treasurer of state~~ sections 192.133, 194.14, 194.19, 194.20, and 195.9 shall be deposited in the general fund of the state. All moneys deposited ~~in the milk fund~~ under this section are appropriated to the department for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapters 194 and 195, and shall be subject to the requirements of section 8.60. ~~All moneys in the milk fund are subject to audit by the auditor of state. The milk fund is subject at all times to warrants by the director of revenue and finance, drawn upon written requisition of the secretary. Notwithstanding section 8.33, moneys, including interest earned, in the milk fund shall remain from year to year and shall not revert to the general fund.~~

b. In each fiscal year, the secretary shall calculate the balance of funds deposited under this section by subtracting all moneys expended for the costs of inspection, sampling, analysis and other expenses necessary for the administration of this chapter and chapters 194 and 195. If ~~there is an unencumbered~~ the calculation shows a balance of funds ~~in the milk fund~~ deposited under this section on June 30 of any fiscal year equal to or exceeding one hundred fifty thousand dollars, the secretary shall reduce the fees provided for in subsection 2 of this section and section 194.20 for the next fiscal year in an amount which will result in an ending estimated balance of such funds for June 30 of the next fiscal year of one hundred fifty thousand dollars.

~~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, beginning on July 1, 1991, all fees collected under those sections shall be deposited into the general fund of the state. All moneys deposited in the general fund under this section shall be appropriated for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and chapters 194 and 195. Such appropriations shall not be deposited into the milk fund.~~

Sec. 39. Section 192.133, Code 1993, is amended to read as follows:

192.133 LICENSE TERM — FEES.

A license, unless earlier revoked, is valid until July 1 after the date of its issuance. The maximum fee for a license is twenty-five dollars, which shall be paid before the license is issued, and standard test bottles and pipettes shall be furnished at actual cost. Fees collected under this section shall be deposited ~~in the milk fund established~~ and used as required in section 192.111.

Sec. 40. Section 192A.30, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

~~Notwithstanding the provisions of this section, fees~~ Fees paid to the secretary shall ~~not be deposited into the dairy trade practices trust fund beginning on July 1, 1991, but shall~~ be deposited into the general fund of the state and shall be subject to the requirements of section 8.60.

Sec. 41. Section 194.14, Code 1993, is amended to read as follows:

194.14 LICENSE TERM — FEES.

A milk grader's license, unless sooner revoked, is valid until July 1 after the date of issuance. The maximum fee for each license is ten dollars, which shall be paid before the license is issued. Fees collected under this section shall be deposited ~~in the milk fund established~~ and used as required in section 192.111.

Sec. 42. Section 194.19, Code 1993, is amended to read as follows:

194.19 LICENSES FOR COLLECTION VEHICLES — FEES.

A vehicle used for the collection of milk for manufacture of dairy products shall first be licensed by the department. A license, unless earlier revoked, is valid until July 1 after the date of its issuance. The maximum fee for a license is twenty-five dollars, which shall be paid before the license is issued. A fee shall not be imposed under this section if the vehicle or its operator has paid the fee imposed upon milk haulers under section 192.111. Fees collected under this section shall be deposited ~~in the milk fund established~~ and used as required in section 192.111. This section does not apply to individuals transporting their own dairy products.

By applying for ~~said~~ the license, the applicant consents to abide by all laws set forth in this chapter and the rules and regulations which may be promulgated to implement these laws in the case of all milk obtained from Iowa producers for manufacture of dairy products.

The provisions of section 189.28 shall not apply to milk for manufacture of dairy products.

Sec. 43. Section 194.20, Code 1993, is amended to read as follows:

194.20 INSPECTION FEES — GRADE "B" MILK.

A purchaser of milk from a grade "B" milk producer shall pay an inspection fee not greater than one-half cent per hundredweight. The fee is payable monthly to the department at a time prescribed by the department. Fees collected under this section shall be deposited ~~in the milk fund established~~ and used as required in section 192.111.

Sec. 44. Section 195.9, Code 1993, is amended to read as follows:

195.9 LICENSE TERM — FEES.

A license, unless sooner revoked, is valid until July 1 after the date of its issuance. The maximum fee for a license is twenty-five dollars which shall be paid before the license is issued. Fees collected under this section shall be deposited ~~in the milk fund established~~ and used as required in section 192.111.

Sec. 45. Section 198.9, subsection 3, Code Supplement 1993, is amended to read as follows:

3. Fees collected shall ~~constitute a fund~~ be deposited in the general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section shall be used for the payment of the costs of inspection, sampling, analysis, supportive research, and other expenses necessary for the administration of this chapter.

If there is an unencumbered balance of funds ~~in the commercial feed fund~~ from the fees deposited under this section on June 30 of any fiscal year equal to or exceeding one hundred thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 for the next fiscal year in such amount as will result in an ending estimated balance of the fees deposited less costs paid for from those fees for June 30 of the next fiscal year of one hundred thousand dollars.

The secretary shall publish a report not later than September 1 of each year. The report shall provide a detailed accounting of all sources of revenue deposited under and all dispositions of funds ~~utilized by the commercial feed trust fund~~ expended under this section. The report shall detail full-time equivalent positions used in fulfilling the requirements of this chapter. The report shall also indicate to what extent any full-time equivalent positions are shared with other programs. Copies of the report issued by the secretary pursuant to this subsection shall be delivered each year to the members of the house of representatives and senate standing committees on agriculture.

~~Notwithstanding the provisions of this subsection directing that fees collected be deposited into the commercial feed fund, beginning on July 1, 1991, all fees collected shall be deposited into the general fund of the state.~~

Sec. 46. Section 200.8, subsection 3, Code 1993, is amended to read as follows:

3. If there is an unencumbered balance of funds ~~in the fertilizer fund~~ from the amount of the fees deposited in the general fund pursuant to sections 200.9 and 201.13 on June 30 of any fiscal year equal to or exceeding three hundred fifty thousand dollars, the secretary of agriculture shall reduce the per ton fee provided for in subsection 1 and the annual license fee established pursuant to section 201.3 for the next fiscal year in such amount as will result in an ending estimated balance of such funds for June 30 of the next fiscal year of three hundred fifty thousand dollars.

Sec. 47. Section 200.9, Code Supplement 1993, is amended to read as follows:

200.9 FERTILIZER ~~FUND~~ FEES.

Fees collected for licenses and inspection fees under sections 200.4 and 200.8, with the exception of those fees collected for deposit in the agriculture management account of the groundwater protection fund, shall be deposited in the ~~treasury to the credit of the fertilizer fund to~~ general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section to the general fund shall be used only by the department for the purpose of inspection, sampling, analysis, preparation, and publishing of reports and other expenses necessary for administration of this chapter. The secretary may assign moneys to the Iowa agricultural experiment station for research, work projects, and investigations as needed for the specific purpose of improving the regulatory functions for enforcement of this chapter.

~~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, beginning on July 1, 1991, 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. 48. Section 201.13, Code 1993, is amended to read as follows:

201.13 MONEYS TO ~~FERTILIZER~~ GENERAL FUND — PERIODIC REPORT.

The moneys received under this chapter shall be deposited in the ~~fertilizer fund as established pursuant to chapter 200, to~~ general fund of the state and shall be subject to the requirements of section 8.60. Moneys deposited under this section shall be used by the department of agriculture and land stewardship only for the purpose of inspection, sampling, analyzing, preparing and publishing of reports, and other expenses necessary for the administration of this chapter. The secretary shall issue an annual report showing a statement of moneys received from license and testing fees, and a biennial report which shall be made available to the public showing the certifications of the effective calcium carbonate equivalent for all agricultural lime, limestone, or aglime certified as provided in this chapter. The report shall list the manufacturers and producers and their locations. Copies of all reports issued by the secretary pursuant to this section shall be sent to the members of the house of representatives and senate standing committees on agriculture.

Sec. 49. Section 206.12, subsection 3, Code Supplement 1993, is amended to read as follows:

3. The registrant, before selling or offering for sale any pesticide for use in this state, shall register each brand and grade of such pesticide with the secretary upon forms furnished by the secretary, and the secretary shall set the registration fee annually at one-fifth of one percent of gross sales within this state with a minimum fee of two hundred fifty dollars and a maximum fee of three thousand dollars for each and every brand and grade to be offered for sale in this state except as otherwise provided. The annual registration fee for products with gross annual sales in this state of less than one million five hundred thousand dollars shall

be the greater of two hundred fifty dollars or one-fifth of one percent of the gross annual sales as established by affidavit of the registrant. The secretary shall adopt by rule exemptions to the minimum fee. Fifty dollars of each fee collected shall be deposited in the ~~treasury to the credit of the pesticide fund to~~ general fund of the state, shall be subject to the requirements of section 8.60, and shall be used only for the purpose of enforcing the provisions of this chapter and the remainder of each fee collected shall be placed in the agriculture management account of the groundwater protection fund.

~~Notwithstanding the provisions of this subsection directing that fifty dollars of each fee collected be deposited into the pesticide fund, beginning on July 1, 1991, fifty dollars of each fee collected shall be deposited into the general fund of the state.~~

Sec. 50. Section 312.2, subsections 13 and 15, Code Supplement 1993, are amended to read as follows:

13. The treasurer of state, before making the allotments provided for in this section, shall credit annually to the ~~department of justice~~ general fund of the state from revenues credited to the road use tax fund under section 423.24, subsection 1, paragraph "d", an amount equal to twenty-five cents on each title issuance for motor vehicle fraud law enforcement and prosecution purposes including, but not limited to, the enforcement of state and federal odometer laws. Moneys deposited to the general fund under this subsection are subject to the requirements of section 8.60.

~~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, beginning on July 1, 1991, the twenty-five cents on each title issuance shall be deposited into the general fund of the state.~~

15. The treasurer of state, before making the allotments provided for in this section, shall credit monthly from the road use tax fund to the ~~public transit assistance fund, created under section 324A.6,~~ general fund of the state from revenue credited to the road use tax fund under section 423.24, subsection 1, paragraph "d", an amount equal to one-twentieth of eighty percent of the revenue from the operation of section 423.7.

~~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, beginning on July 1, 1991, 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. 51. Section 321.52, subsection 4, paragraph c, Code Supplement 1993, is amended to read as follows:

c. A salvage theft examination shall be made by a peace officer who has been specially certified and recertified when required by the Iowa law enforcement academy to do salvage theft examinations. The Iowa law enforcement academy shall determine standards for training and certification, conduct training, and may approve alternative training programs which satisfy the academy's standards for training and certification. The owner of the salvage vehicle shall make the vehicle available for examination at a time and location designated by the peace officer doing the examination. The owner may obtain a permit to drive the vehicle to and from the examination location by submitting a repair affidavit to the agency performing the examination stating that the vehicle is reasonably safe for operation and listing the repairs which have been made to the vehicle. The owner must be present for the examination and have available for inspection the salvage title, bills of sale for all essential parts changed, and the repair affidavit. The examination shall be for the purposes of determining whether the vehicle or repair components have been stolen. The examination is not a safety inspection and a signed salvage theft examination certificate shall not be construed by any court of law to be a certification that the vehicle is safe to be operated. There shall be no cause of action against the

peace officer or the agency conducting the examination or the county treasurer for failure to discover or note safety defects. If the vehicle passes the theft examination, the peace officer shall indicate that the vehicle passed examination on the salvage theft examination certificate. The permit and salvage theft examination certificate shall be on controlled forms prescribed and furnished by the department. The owner shall pay a fee of thirty dollars upon completion of the examination. The agency performing the examinations shall retain twenty dollars of the fee and shall pay five dollars of the fee to the department and five dollars of the fee to the treasurer of state for deposit in the general fund of the state. Moneys deposited to the general fund under this paragraph are subject to the requirements of section 8.60 and shall be used by the Iowa law enforcement academy to provide for the special training, certification, and recertification of officers as required by this subsection.

The provision of this subsection requiring a salvage theft examination by a peace officer specially certified or recertified by the Iowa law enforcement academy to do salvage theft examinations shall become effective July 1, 1989. Salvage theft examinations conducted before July 1, 1989, shall be made by peace officers authorized to do so by the state department of transportation or the department of public safety who are qualified, as determined by those agencies, to conduct salvage theft examinations. The state department of transportation shall adopt rules in accordance with chapter 17A to carry out this section, including transition rules allowing for salvage theft examinations prior to July 1, 1989.

~~Notwithstanding the provisions of this lettered paragraph directing that five dollars of each fee be paid to the Iowa law enforcement academy, beginning on July 1, 1991, such five dollars shall be deposited into the general fund of the state.~~

Sec. 52. Section 324A.6, subsections 1 and 4, Code Supplement 1993, are amended to read as follows:

1. ~~There is established a public transit assistance fund in the office of the treasurer of state.~~ Moneys ~~in this fund~~ appropriated for purposes of public transit assistance under this chapter shall be expended for providing assistance to public transit for the development, improvement, and maintenance of public transit systems. ~~Unencumbered moneys appropriated by the general assembly for the implementation of a state assistance plan shall be deposited in the public transit assistance fund.~~ Moneys received by the department by agreements, grants, gifts, or other means from individuals, companies or other business entities, or cities and counties for the purposes stated in this section shall be credited to the ~~public transit assistance~~ general fund of the state.

~~Notwithstanding the provisions of this section and section 312.2, subsection 15, directing that moneys be deposited into the public transit assistance fund, beginning on July 1, 1991, all such moneys under these sections shall be deposited into the general fund of the state. There is appropriated from moneys~~ 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~~ subsection are appropriated 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.~~

~~4. Moneys deposited in the public transit assistance fund are not subject to sections 8.33 and 8.39.~~

Sec. 53. Section 327H.18, Code Supplement 1993, is amended to read as follows:

327H.18 RAILROAD ASSISTANCE ~~FUND ESTABLISHED~~.

~~There is established a railroad assistance fund in the office of the treasurer of state.~~ Moneys ~~in this fund~~ provided to the department for railroad assistance under this chapter shall be expended for providing assistance for the restoration, conservation, improvement, and construction of railroad main lines, branch lines, switching yards and sidings. ~~Any unencumbered funds appropriated by the general assembly for branch line railroad assistance shall be deposited in the railroad assistance fund.~~ However, not more than twenty percent of the funds appropriated to the department for railroad assistance ~~fund~~ from the general fund of the state in any

fiscal year shall be used for restoration, conservation, improvement, and construction of railroad main lines, switching yards and sidings. Any moneys received by the department by agreements, grants, gifts, or other means from individuals, companies, business entities, cities, or counties for the purposes of this section shall be credited to the ~~railroad assistance~~ general fund of the state.

~~Notwithstanding the provisions of~~ Moneys received by or reimbursements made to the department pursuant to 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, beginning on July 1, 1991, such moneys~~ shall be deposited into the general fund of the state and 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~~ section are appropriated for state railroad assistance under this chapter. ~~Such appropriations shall not be deposited into the railroad assistance fund~~ Moneys deposited into the general fund of the state pursuant to this section are subject to the requirements of section 8.60.

Sec. 54. Section 327H.20, Code 1993, is amended to read as follows:

327H.20 ASSISTANCE AGREEMENTS.

The department may enter into agreements with railroad corporations, the United States government, cities, counties, and other persons for carrying out the purposes of this chapter. Agreements entered into between the department and railroad corporations under this section may require a railroad corporation to reimburse all or part of the costs paid from ~~the railroad assistance fund~~ funds provided by the department from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard or sidings defined in the agreement. An agreement which does not require the repayment of railroad assistance funds used for rehabilitation projects shall require the railroad corporation to establish and maintain a separate corporation account to which an amount equal to all or part of the costs paid from ~~the railroad assistance fund~~ funds provided by the department shall be credited from revenue derived from all railroad cars and traffic using the main line, branch line, switching yard, or siding defined in the agreement. Credits to the corporation account by the railroad corporation may be used for the restoration, conservation, improvement, and construction of the railroad corporation's main line, branch lines, switching yards, and sidings within the state. The agreement shall stipulate the terms and conditions governing the use of credits to the corporation account as well as a penalty for the use of the account in a manner other than as provided in the agreement.

With the department's approval, a city may appropriate money from its general fund to the ~~railroad assistance fund~~ department. The department may agree to pay partial or total reimbursement to a city or county which appropriates money to the ~~railroad assistance fund~~ department. Money appropriated to the ~~railroad assistance fund~~ department from a city or county shall be used only as provided in section 327H.18 and within the city or county providing the money.

Moneys appropriated to the department by a city, county, or railroad district which are unexpended or unobligated following the expiration of an agreement shall be repaid to the city, county, or railroad district.

Sec. 55. Section 327H.21, Code 1993, is amended to read as follows:

327H.21 FEDERAL FUNDS.

The department may accept federal funds to carry out the purposes of this chapter. All federal funds received under this section and all interest and earnings on federal funds received under this section are appropriated for the purposes set forth in the federal grants.

Sec. 56. Section 327H.25, Code 1993, is amended to read as follows:

327H.25 ~~TRANSFER OF DUTIES~~ ENERGY POLICY COUNCIL AGREEMENTS.

~~The administration of the railroad assistance fund shall be transferred from the energy policy council to the department not later than July 1, 1976.~~ All agreements for railroad assistance entered into by the energy policy council with railroads and other persons shall be carried out by the department.

Sec. 57. Section 327I.4, subsections 11 and 15, Code 1993, are amended to read as follows:

11. "Pledged receipts" means the revenues and receipts received or to be received by the authority from the lease, operation or sale or disposition of railway facilities; from loan or other agreements relating to financial assistance; from grants, gifts or payments on guarantees made to the authority by any person; from accrued interest received from the sale of obligations; from income from the investment of special funds of the authority~~, including the special railroad facility fund~~; from the revenues and receipts deposited in the special railroad facility fund; and from any other moneys which are available for the payment of bond service charges.

~~15. "Special railroad facility fund" means the fund created in section 327I.23.~~

Sec. 58. Section 327I.7, subsections 14, 20, and 21, Code 1993, are amended to read as follows:

14. Extend financial assistance for the purpose of providing for project costs. Make interest-free loans for rehabilitation of railway tracks, roadbeds, or trestles to persons which have repaid in part the original loan from the authority which was made for the purpose of the acquisition or rehabilitation of railway tracks, roadbeds, or trestles. However, an interest-free loan to a person shall not exceed the amount repaid of the original loan made to that person and one-half of the amount of the interest-free loan repaid to the authority shall be credited to the ~~railroad assistance~~ general fund ~~established in section 327H.18~~ of the state.

~~20. Pledge any funds contained in the special railroad facility fund to the payment of and as security for obligations issued under this chapter.~~

~~21. Invest moneys in the special railroad facility fund in general or limited partnership interests in a partnership formed to purchase, renovate, and operate a railway facility.~~

Sec. 59. Section 327I.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Except as provided in this chapter, all obligations are payable solely out of the pledged receipts as designated in the bond proceedings. Tax funds which the authority receives from a political subdivision of the state shall not be pledged for payment of the obligations. Except for those tax funds deposited in the ~~special railroad facility~~ general fund of the state as provided in section 327I.23, subsection 2, or other tax funds available pursuant to section 327I.26, the state shall not appropriate tax funds, directly or indirectly, to the authority for the purpose of payment of obligations of the authority. Obligations shall be authorized by resolution of the board and bond proceedings shall provide for the purpose of the obligations, the principal amount, the principal maturity or maturities, not exceeding twenty-five years from the date of issuance, the interest rate or rates or the maximum interest rate, the date of the obligations and the dates of payment of interest on them, their denomination, and the establishment within or without the state of a place or places of payment of bond service charges. As much as is practicable within the legal and fiscal limitations inherent in bond issuance, a portion of the bonds shall be issued in denominations of five thousand dollars and smaller, in order to allow smaller investors in the state to purchase the bonds.

Sec. 60. Section 327I.12, Code 1993, is amended to read as follows:

327I.12 PAYMENT OF OBLIGATIONS — NONLIABILITY OF STATE.

Obligations issued under this chapter, and judgments based on contract or tort arising from the activities of the authority or persons acting on its behalf, are not a debt or liability of the state or of any political subdivision within the meaning of any constitutional or statutory debt limitation and are not a pledge of the state's credit or taxing power within the meaning of any constitutional or statutory limitation or provision and no appropriation shall be made, directly or indirectly, by the state or any political subdivision of the state for the payment of the obligations or judgments or to fund any deficiency in ~~the special railroad facility fund~~ any special funds, or for the indemnification of a person subject to a judgment arising from that person's actions on the authority's behalf. These obligations and judgments are special obligations of the authority payable solely and only from the sources and special funds provided in this chapter. Funds from the general fund of the state shall not be used to pay interest or principal on obligations of the authority in the event that receipts from the taxes ~~designated for deposit in the special railroad facility fund~~ available as provided in section 327I.23,

subsection 2, and section 327I.26 are insufficient.

Sec. 61. Section 327I.23, subsections 1 and 2, Code Supplement 1993, are amended to read as follows:

1. ~~There is created in the office of the state treasurer a "special railroad facility fund". This fund shall include moneys which by law may be credited to the special railroad facility fund. The moneys in the special railroad facility fund are appropriated to and for the purposes of the authority as provided in this chapter. The funds in the special railroad facility fund shall not be considered as a part of the general fund of the state, are not subject to appropriation for any other purpose by the general assembly, and in determining a general fund balance shall not be included in the general fund of the state but shall remain in the special railroad facility fund to be used for the purposes set forth in this section. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the authority. The treasurer of state is authorized to invest the funds deposited in the special railroad facility fund at the direction of the authority and subject to any limitations contained in the bond proceedings. The income from the investment shall be credited to and deposited in the special railroad facility fund. This fund~~ Moneys available, by appropriation or otherwise, to the authority for purposes of this chapter shall be administered by the authority and may be used to purchase or upgrade railroad right-of-way and trackage facilities or to purchase general or limited partnership interests in a partnership formed to purchase, upgrade, or operate railroad right-of-way and trackage facilities, to pay or secure obligations issued by the authority, to pay obligations, judgments, or debts for which the authority becomes liable in its capacity as a general partner, or for any other use authorized under this chapter. The ~~fund~~ moneys may also be used to purchase or upgrade railroad right-of-way and trackage facilities for the development of railroad passenger tourism.

2. Moneys received from repayment from heartland rail corporation as provided in 1983 Iowa Acts, chapter 198, section 32, as amended by 1987 Iowa Acts, chapter 232, section 28, and 1988 Iowa Acts, chapter 1211, section 6, shall be deposited in a separate account within the ~~special railroad facility fund and shall~~ general fund of the state and are appropriated to the authority to be used by the authority only for debt service or rehabilitation on branch rail lines whose total projected traffic is at least fifty percent agricultural products.

Sec. 62. Section 327I.23, subsection 3, Code Supplement 1993, is amended by striking the subsection.

Sec. 63. Section 327I.25, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The authority shall certify to the treasurer of state amounts of money necessary for payment of principal and interest by the authority on obligations issued on or after July 1, 1988, or to make payments on leases guaranteed by the authority on or after July 1, 1988. However, certification shall only be made under this section when there are insufficient moneys available to the authority for the payment ~~from moneys credited to the special railroad facility fund or other sources available to the authority~~ of such principal and interest or the payment of such leases.

Sec. 64. Section 327I.26, Code 1993, is amended to read as follows:

327I.26 APPROPRIATION TO AUTHORITY.

Notwithstanding section 423.24 and prior to the application of section 423.24, subsection 1, paragraph "e d", there shall be deposited into the general fund of the state and is appropriated to the authority from eighty percent of the revenues derived from the operation of section 423.7 the amounts certified by the authority under section 327I.25. However, the total amount ~~credited~~ deposited into the general fund and appropriated to the Iowa railway finance authority under this section shall not exceed two million dollars annually. Moneys ~~credited~~ appropriated to the Iowa railway finance authority under this section are appropriated only for the payment of principal and interest on obligations or the payment of leases guaranteed by the authority as provided under section 327I.25.

Sec. 65. Section 328.12, subsection 1, Code 1993, is amended to read as follows:

1. Promotion of aeronautics. Encourage, foster, and assist in the general development and promotion of aeronautics in this state, and make disbursements from ~~the state aviation fund~~ moneys available for such purposes.

Sec. 66. Section 328.24, Code 1993, is amended to read as follows:

328.24 REFUNDS OF FEES.

If, during the year for which an aircraft, except nonresident aircraft used for the application of herbicides and pesticides, was registered and the required fee paid the aircraft is destroyed by fire or accident or junked, and its identity as an aircraft entirely eliminated, or it is removed and continuously used beyond the boundaries of the state, then the owner in whose name it was registered at the time of destruction, dismantling, or removal from the state shall return the certificate of registration to the department within ten days and make affidavit of ~~such~~ the destruction, dismantling, or removal and make claim for the refund. The refund shall be paid from the ~~state aviation~~ general fund of the state.

The registration fee for the unexpired portion of the year shall be refunded pro rata to the nearest full calendar month, except that a refund shall not be allowed if the unused portion of the fee is less than thirty-five dollars per aircraft.

Sec. 67. Section 328.36, Code Supplement 1993, is amended by striking the section and inserting in lieu thereof the following:

328.36 DEPOSIT AND USE OF REVENUES.

All moneys received by the department pursuant to section 328.21 or other sections of this chapter and those moneys remaining after the cost of administering the aviation fuel tax fund as provided in section 452A.82 shall be deposited into the general fund of the state and shall be subject to the requirements of section 8.60.

Sec. 68. Section 452A.79, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

~~A separate fund is created and designated as the "marine fuel tax fund".~~ All moneys derived from the excise tax on the sale of motor fuel used in watercraft shall be deposited in the ~~marine fuel tax~~ general fund of the state. Moneys ~~in the fund~~ deposited to the general fund under this section and section 452A.84 are subject to the requirements of section 8.60 and are subject to appropriation by the general assembly to the department of natural resources for use in its recreational boating program, which may include but is not limited to:

Sec. 69. Section 452A.79, unnumbered paragraph 3, Code Supplement 1993, is amended by striking the unnumbered paragraph.

Sec. 70. Section 452A.82, Code 1993, is amended to read as follows:

452A.82 AVIATION FUEL TAX FUND.

The portion of the moneys collected under this chapter received on account of aviation gasoline and special fuel used in aircraft shall be deposited in a separate fund to be maintained by the treasurer. All moneys remaining in the separate fund after the cost of administering the fund ~~have~~ has been paid shall be credited to the ~~state aviation~~ general fund of the state.

Sec. 71. Section 452A.84, Code 1993, is amended to read as follows:

452A.84 TRANSFER TO ~~MARINE FUEL TAX~~ STATE GENERAL FUND.

The treasurer of state shall transfer from the motor fuel tax fund to the ~~marine fuel tax fund created in section 452A.79~~ general fund of the state that portion of moneys collected under this chapter attributable to motor fuel used in watercraft computed as follows:

1. Determine monthly the total amount of motor fuel tax collected under this chapter and multiply the amount by nine-tenths of one percent.

2. Subtract from the figure computed pursuant to subsection 1 of this section three percent of the figure for administrative costs and further subtract from the figure the amounts refunded to commercial fishers pursuant to ~~subsection 13 of~~ section 452A.17, subsection 13. All moneys

remaining after claims for refund and the cost of administration have been made shall be transferred to the ~~marine fuel tax~~ general fund of the state.

Sec. 72. Section 456A.17, Code 1993, is amended to read as follows:

456A.17 FUNDS.

The following ~~five~~ four funds are created in the state treasury:

1. A state fish and game protection fund.
2. A state conservation fund.
3. An administration fund.
4. ~~A public outdoor recreation and resources fund.~~
5. ~~5.~~ A county conservation board fund.

The state fish and game protection fund, except as otherwise provided, consists of all moneys accruing from license fees and all other sources of revenue arising under the fish and wildlife division. Notwithstanding section 12C.7, subsection 2, interest or earnings on investments or time deposits of the ~~funds~~ moneys in the state fish and game protection fund ~~and the public outdoor recreation and resources fund~~ shall be credited to ~~those funds respectively~~ that fund.

The ~~public outdoor recreation and resources fund and the~~ county conservation board fund ~~consist~~ consists of all moneys credited to ~~them~~ it by law or appropriated to ~~them~~ it by the general assembly.

The conservation fund, except as otherwise provided, consists of all other funds accruing to the department for the purposes embraced by this chapter.

The administration fund shall consist of an equitable portion of the gross amount of the state fish and game protection fund and the state conservation fund, to be determined by the commission, sufficient to pay the expense of administration entailed by this chapter.

All receipts and refunds and reimbursements related to activities funded by the administration fund are appropriated to the administration fund. All refunds and reimbursements relating to activities of the state fish and game protection fund shall be credited to the state fish and game protection fund.

Sec. 73. Section 456A.19, unnumbered paragraph 7, Code 1993, is amended by striking the unnumbered paragraph.

Sec. 74. Section 461A.79, Code Supplement 1993, is amended to read as follows:

461A.79 PUBLIC OUTDOOR RECREATION AND RESOURCES ~~FUND~~.

1. Fifty percent of the funds ~~credited to the~~ appropriated for purposes of this section for public outdoor recreation and resources ~~fund~~ shall be expended on land acquisition and capital improvements in carrying out ~~the provisions of~~ this chapter. Acquisition projects, both fee-simple and less-than-fee, from willing sellers, may be for purposes of establishment or expansion of state parks, public hunting areas, natural areas, public fishing areas, water access sites, trail corridors, and other acquisition projects that are in accord with this chapter. Notwithstanding the exemption provided by section 427.1, land acquired under this subsection is subject to the full consolidated levy of property taxes which shall be paid from revenues available to be expended under this subsection. Capital improvements may be either new developments or rehabilitative in nature. Lake and watershed restoration projects are eligible for funding under this subsection. Not more than fifty percent of the revenues available to be expended under this subsection may be used by the commission to enter into agreements with county conservation boards and county boards of supervisors in those counties without conservation boards to carry out the purposes of this subsection. The agreement shall not provide for the payment by the commission of more than seventy-five percent of the cost of the project and the agreement shall specify that the county conservation board or county board of supervisors, whichever is applicable, shall provide funds for the remaining cost of the project covered by the agreement. ~~Revenues~~ Moneys available to be expended under this subsection may be used for the matching of federal funds.

2. Forty-five percent of the funds ~~credited to the~~ appropriated for purposes of this section for public outdoor recreation and resources ~~fund~~ shall be expended on the state recreation

tourism grant program. This program shall provide matching grants to cities and unincorporated communities for purposes of developing or improving recreational projects or tourist attractions. A city or unincorporated community may submit an application to the commission for a matching grant, except that an unincorporated community shall submit the application through the county board of supervisors. Applications shall be reviewed by the advisory council for ~~the~~ public outdoor recreation and resources ~~fund~~. The advisory council shall submit recommendations to the commission regarding possible recipients and grant amounts. Grants made to an unincorporated community shall be paid to the county board of supervisors to be used for the project of the unincorporated community. The amount of the grant shall not exceed fifty percent of the cost of the development or improvement to be made and the application must demonstrate that the city or unincorporated community will provide the required matching funds.

3. Five percent of the funds ~~credited to the~~ appropriated for purposes of this section for public outdoor recreation and resources ~~fund~~ shall be expended on advertising which shall promote the use of recreational facilities and tourist attractions in the state. The commission shall enter into an agreement with the Iowa department of economic development for the expenditure of these funds for this purpose.

4. ~~Notwithstanding any other provision of law, beginning on July 1, 1991, moneys to be credited to or deposited in the~~ Moneys available to be expended for purposes of this section for 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. Moneys credited to or deposited to the general fund of the state pursuant to this subsection are subject to the requirements of section 8.60.

Sec. 75. Section 461A.80, subsections 1 and 2, Code 1993, are amended to read as follows:

1. An advisory council for ~~the~~ public outdoor recreation and resources ~~fund~~ appropriations made for the purposes of section 461A.79 is created. The council shall consist of a public member appointed by the governor from each congressional district, the chairperson of the commission, the director, and a designee of the Iowa department of economic development. No more than three public members shall belong to the same political party. The council shall elect a chairperson annually from among ~~their own~~ the council's members, and the director shall serve as council secretary. Persons already serving in an elected or appointed governmental capacity are not eligible to serve as council members.

2. The advisory council shall meet annually, in July, and upon the call of the chairperson of the advisory council. The advisory council shall make policy recommendations to the commission regarding the projects and programs to be funded from ~~the~~ funds available for public outdoor recreation and resources ~~fund~~ from appropriations made for the purposes of section 461A.79.

Sec. 76. Section 473.11, subsection 1, paragraph f, Code Supplement 1993, is amended to read as follows:

f. The moneys deposited under section 473.16 in the ~~energy research and development~~ general fund of the state 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 general fund of the state under section 556.18, subsection 3, 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, beginning July 1, 1991, all moneys shall be~~ Moneys

deposited into the general fund of the state under sections 473.16, 476.51, and 556.18, subsection 3, are subject to the requirements of section 8.60.

Sec. 77. Section 473.11, subsection 5, paragraph f, Code Supplement 1993, is amended by striking the paragraph.

Sec. 78. Section 473.16, Code 1993, is amended to read as follows:

473.16 ADDITIONAL FUNDS.

The department may accept funds from state and local sources and shall take steps necessary to obtain federal funds allotted and appropriated for the purpose of the above described energy-related programs. ~~Such~~ These funds shall be deposited in the ~~energy research and development~~ general fund of the state and shall be subject to the requirements of section 8.60. Federal funds received under the provisions of this section are appropriated for the purposes set forth in the federal grants.

~~Notwithstanding the provisions of this section directing that funds accepted be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds accepted shall be deposited into the general fund of the state and shall be appropriated as provided in section 93.11, subsection 1, paragraph "f".~~

Sec. 79. Section 475A.3, subsection 3, Code 1993, is amended to read as follows:

3. Salaries, expenses, and appropriation. The salary of the consumer advocate shall be fixed by the attorney general within the salary range set by the general assembly. The salaries of employees of the consumer advocate shall be at rates of compensation consistent with current standards in industry. The reimbursement of expenses for the employees and the consumer advocate is as provided by law. The appropriation for the office of consumer advocate shall be a separate line item contained in the appropriation from the ~~utility~~ ~~trust~~ general fund ~~created pursuant to section 476.10~~ of the state.

Sec. 80. Section 476.10, unnumbered paragraphs 5 through 8, Code Supplement 1993, are amended by striking the unnumbered paragraphs and inserting in lieu thereof the following:

Fees paid to the utilities division shall be deposited in the general fund of the state. These funds shall be used for the payment, upon appropriation by the general assembly, of the expenses of the utilities division and the consumer advocate division of the department of justice. Subject to this section, the utilities division or the consumer advocate division may keep on hand with the treasurer of state funds in excess of the current needs of the utilities division or the consumer advocate division.

The administrator and consumer advocate shall account for receipts and disbursements according to the separate duties imposed upon the utilities and consumer advocate divisions by the laws of this state and each separate duty shall be fiscally self-sustaining.

All fees and other moneys collected under this section and sections 478.4, 479.16, and 479A.9 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. Moneys deposited into the general fund of the state pursuant to this section and sections 478.4, 479.16, and 479A.9 shall be subject to the requirements of section 8.60.

Sec. 81. Section 476.51, unnumbered paragraphs 5 and 6, Code 1993, are amended to read as follows:

Civil penalties collected pursuant to this section shall be forwarded by the executive secretary of the board to the treasurer of state to be credited to the ~~energy research and development~~ general fund of the state and to be used only for the low income home energy assistance program and the weatherization assistance program administered by the division of community action agencies of the department of human rights. Penalties paid by a rate-regulated public utility pursuant to this section shall be excluded from the utility's costs when determining the utility's revenue requirement, and shall not be included either directly or indirectly in the utility's rates or charges to customers.

~~Notwithstanding the provisions of this section directing that civil penalties collected be deposited into the energy research and development fund, for the fiscal period beginning on July 1, 1991, and ending June 30, 1993, all funds collected shall be deposited into the general fund of the state.~~

Sec. 82. Section 478.4, Code 1993, is amended to read as follows:

478.4 FRANCHISE — HEARING.

The utilities board shall consider ~~said~~ the petition and any objections filed ~~thereto~~ to it in the manner ~~hereinafter~~ provided. It shall examine the proposed route or cause any engineer selected by it to do so. If a hearing is held on the petition it may hear ~~such~~ testimony as may aid it in determining the propriety of granting ~~such~~ the franchise. It may grant ~~such~~ the franchise in whole or in part upon ~~such~~ the terms, conditions, and restrictions, and with ~~such~~ the modifications as to location and route as may seem to it just and proper. Before granting ~~such~~ the franchise, the utilities board shall make a finding that the proposed line or lines are necessary to serve a public use and represents a reasonable relationship to an overall plan of transmitting electricity in the public interest. ~~No~~ A franchise shall not become effective until the petitioners shall pay, or file an agreement to pay, all costs and expenses of the franchise proceeding, whether or not objections are filed, including costs of inspections or examinations of the route, hearing, salaries, publishing of notice, and any other expenses reasonably attributable ~~thereto~~ to it. The funds received for the costs and the expenses of the franchise proceeding shall be remitted to the treasurer of state for deposit in the ~~utilities trust~~ general fund of the state as provided in section 476.10.

Sec. 83. Section 479.16, Code 1993, is amended to read as follows:

479.16 ~~USE~~ RECEIPT OF FUNDS.

All moneys received under ~~the provisions of~~ this chapter shall be remitted monthly to the treasurer of state and credited to the ~~utilities trust~~ general fund of the state as provided in section 476.10.

Sec. 84. Section 479A.9, Code 1993, is amended to read as follows:

479A.9 DEPOSIT OF FUNDS.

Except as otherwise provided in section 479A.14, subsection 8, moneys received under this chapter shall be credited to the ~~utilities trust~~ general fund ~~established~~ of the state as provided in section 476.10.

Sec. 85. Section 524.207, Code Supplement 1993, is amended by striking the section and inserting in lieu thereof the following:

524.207 EXPENSES OF THE BANKING DIVISION — FEES.

1. All expenses required in the discharge of the duties and responsibilities imposed upon the banking division of the department of commerce, the superintendent, and the state banking board by the laws of this state shall be paid from fees provided by the laws of this state and appropriated by the general assembly from the general fund of the state. All of these fees are payable to the superintendent. The superintendent shall pay all the fees and other moneys received by the superintendent to the treasurer of state within the time required by section 12.10 and the fees and other moneys shall be deposited into the general fund of the state. The superintendent may keep on hand with the treasurer of state funds in excess of the current needs of the division to the extent approved by the state banking board.

2. The superintendent shall account for receipts and disbursements according to the separate duties imposed upon the superintendent by the laws of this state and each separate duty shall be fiscally self-sustaining.

3. 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 the general assembly.

4. 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. Moneys deposited into the general fund of the state pursuant to this section shall be subject to the requirements of section 8.60.

Sec. 86. Section 533.67, Code Supplement 1993, is amended by striking the section and inserting in lieu thereof the following:

533.67 EXPENSES OF THE CREDIT UNION DIVISION — FEES.

1. All expenses required in the discharge of the duties and responsibilities imposed upon the credit union division, the superintendent, and the credit union review board by the laws of this state shall be paid from fees provided by the laws of this state and appropriated by the general assembly from the general fund of the state. All of these fees are payable to the superintendent. The superintendent shall pay all the fees and other moneys received by the superintendent to the treasurer of state within the time required by section 12.10 and the fees and other moneys shall be deposited into the general fund of the state. The superintendent may keep on hand with the treasurer of state funds in excess of the current needs of the division to the extent approved by the credit union review board.

2. The superintendent shall account for receipts and disbursements according to the separate duties imposed upon the superintendent by the laws of this state and each separate duty shall be fiscally self-sustaining.

3. 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 the general assembly.

4. 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. Moneys deposited into the general fund of the state pursuant to this section shall be subject to the requirements of section 8.60.

5. The division may accept reimbursement of expenses related to the examination of a credit union from the national credit union administration or any other share guarantor or insurance plan authorized by this chapter. These reimbursements shall be deposited into the general fund of the state.

Sec. 87. Section 542B.12, Code 1993, is amended to read as follows:

542B.12 DISPOSITION OF FEES.

The staff shall collect and account for all fees provided for by this chapter and pay the fees to the treasurer of state who shall deposit the fees in the ~~professional licensing revolving~~ general fund of the state.

Sec. 88. Section 542C.3, subsection 3, Code Supplement 1993, is amended to read as follows:

3. All fees and other moneys received by the board, pursuant to this chapter, shall be paid monthly to the treasurer of state for deposit in the ~~professional licensing revolving~~ general fund of the state.

The board shall make a biennial report to the governor of its proceedings, with an account of all moneys received and disbursed, a list of the names of certified public accountants and accounting practitioners whose certificates, permits to practice, or licenses have been revoked or suspended, and other information as it deems proper or the governor requests.

Sec. 89. Section 543B.14, Code 1993, is amended to read as follows:

543B.14 FEES AND EXPENSES — FUNDS.

All fees and charges collected by the real estate commission under this chapter shall be paid into the ~~professional licensing revolving~~ general fund of the state, except that the equivalent of the greater of ten dollars or forty percent per year of the fees for each real estate salesperson's license, plus the equivalent of the greater of ten dollars or twenty-five percent per year of the fees for each broker's license shall be paid into the Iowa real estate education fund created in section 543B.54. All expenses incurred by the commission under this chapter, including compensation of staff assigned to the commission, shall be paid ~~out of the professional licensing revolving fund~~ from funds appropriated for those purposes, except for expenses incurred and compensation paid for the real estate education director, which shall be paid out of the real estate education fund.

Sec. 90. Section 543D.6, subsection 2, Code 1993, is amended to read as follows:

2. Fees collected by the board shall be transmitted to the treasurer of state who shall deposit the fees in the ~~professional licensing revolving~~ general fund of the state.

Sec. 91. Section 544A.11, unnumbered paragraph 2, Code 1993, is amended to read as follows:

All fees shall be paid to the treasurer of state and deposited in the ~~professional licensing revolving~~ general fund of the state.

Sec. 92. Section 544B.14, unnumbered paragraph 2, Code 1993, is amended to read as follows:

All fees shall be collected by the secretary, paid to the treasurer of state and deposited in the ~~professional licensing revolving~~ general fund of the state.

Sec. 93. Section 546.9, unnumbered paragraph 2, Code 1993, is amended by striking the unnumbered paragraph.

Sec. 94. Section 546.10, subsection 5, Code Supplement 1993, is amended by striking the subsection.

Sec. 95. Section 546.10, subsection 6, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

6. Fees collected under chapters 542B, 542C, 543B, 543D, 544A, and 544B shall be paid to the treasurer of state and credited to the general fund of the state. All expenses required in the discharge of the duties and responsibilities imposed upon the professional licensing division of the department of commerce, the administrator, and the licensing boards by the laws of this state shall be paid from moneys appropriated by the general assembly for those purposes. All fees deposited into the general fund of the state, as provided in this subsection, shall be subject to the requirements of section 8.60.

Sec. 96. Section 556.18, subsection 1, Code Supplement 1993, is amended to read as follows:

1. ~~All~~ Except as provided in subsection 3, 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 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. 97. Section 556.18, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The treasurer of state shall annually credit all moneys received under section 556.4 to the general fund of the state. Moneys credited to the general fund of the state pursuant to this subsection are subject to the requirements of subsections 1 and 2 and section 8.60.

Sec. 98. Section 327H.24, Code 1993, is repealed.

Sec. 99. Section 546.11, Code Supplement 1993, is repealed.

Sec. 100. The requirements of section 8.60, subsection 17, with respect to moneys received and credited under section 556.18, subsection 3, as enacted by this Act, relate back to moneys received and credited to the energy research and development fund under section 556.18, subsection 3, Code 1993, except that the reference to former section 93.11 is replaced with a reference to section 473.11.

Approved April 25, 1994

CHAPTER 1108

OSTEOPATHIC STUDENT LOANS

S.F. 2092

AN ACT relating to the college student aid commission loan reserve account and the osteopathic forgivable loan program, and creating an osteopathic loan revolving fund.

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

Section 1. Section 261.19A, unnumbered paragraph 2, Code 1993, is amended to read as follows:

An eligible student is eligible for loan forgiveness in ~~the~~ an amount ~~of~~ equal to twenty-five percent of the outstanding balance of principal and accrued interest, or three thousand dollars, whichever is greater, per year of practice in the state of Iowa for up to a maximum of four years. If a student fails to complete a year of practice in the state, as practice is defined by the college student aid commission, the loan amount for that year shall not be forgiven. Forgivable loans to eligible students shall not become due, for repayment purposes, until after the student has completed the student's residency. A loan that has not been forgiven may be sold to a bank, savings and loan association, credit union, or nonprofit agency eligible to participate in the guaranteed student loan program under the federal Higher Education Act of 1965, 20 U.S.C. § 1071 et seq., by the commission when the loan becomes due for repayment.

Sec. 2. NEW SECTION. 261.19B OSTEOPATHIC LOAN REVOLVING FUND.

An osteopathic loan revolving fund is created in the state treasury as a separate fund under the control of the commission. The commission shall deposit payments made by osteopathic loan recipients and the proceeds from the sale of osteopathic loans into the osteopathic loan

revolving fund. Moneys credited to the fund shall be used to supplement moneys appropriated for the osteopathic forgivable loan program, for loan forgiveness to eligible physicians and to pay for loan or interest repayment defaults by eligible physicians. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Approved April 25, 1994

CHAPTER 1109

VOCATIONAL REHABILITATION

S.F. 2172

AN ACT relating to vocational rehabilitation.

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

Section 1. Section 19B.2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

It is the policy of this state to permit special appointments by bypassing the usual testing procedures for any applicant for whom the division of vocational rehabilitation services of the department of education or the department for the blind has certified the applicant's disability and competence to perform the job. The department of personnel, in cooperation with the department for the blind and the division of vocational rehabilitation services, shall develop appropriate certification procedures. This paragraph should not be interpreted to bar promotional opportunities for blind and physically or mentally disabled persons. If this paragraph conflicts with any other provisions of this chapter, the provisions of this paragraph govern.

Sec. 2. Section 135.22A, subsection 2, paragraph e, Code 1993, is amended to read as follows:

e. The administrator of the division of vocational rehabilitation services of the department of education.

Sec. 3. Section 225C.23, Code 1993, is amended to read as follows:

225C.23 BRAIN INJURY RECOGNIZED AS DISABILITY.

The department of human services, the Iowa department of public health, the department of education and its divisions of special education and vocational rehabilitation services, the department of human rights and its division for persons with disabilities, the department for the blind, and all other state agencies which serve persons with brain injuries, shall recognize brain injury as a distinct disability and shall identify those persons with brain injuries among the persons served by the state agency.

Sec. 4. Section 259.1, Code 1993, is amended to read as follows:

259.1 ACCEPTANCE OF FEDERAL ~~ACTS~~ ACT.

The state of Iowa, through its legislative authority, accepts the provisions and benefits of the ~~Acts of Congress entitled~~ federal ~~"The~~ Rehabilitation Act of 1973", ~~Pub. L. No.93-112, "The Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978", Pub. L. No.95-602, the "Rehabilitation Amendments of 1984", Pub. L. No.98-221, and the "Rehabilitation Amendments of 1986", Pub. L.No. 99-506,~~ as amended and codified in 29 U.S.C. § 701 et seq.

Sec. 5. Section 259.2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The treasurer of state is custodian of moneys received by the state from appropriations made by the Congress of the United States for the vocational rehabilitation of ~~persons disabled in industry or otherwise~~ individuals with disabilities, and may receive and provide for the proper

custody of the moneys and make disbursement of them upon the requisition of the director of the department of education.

Sec. 6. Section 259.3, Code 1993, is amended to read as follows:

259.3 BOARD AND DIVISION.

The state board of education is the board for vocational education under this chapter. The division of vocational rehabilitation services is established in the department of education. The director of the department of education shall cooperate with the United States secretary of education in carrying out the federal ~~acts~~ law cited in sections 259.1 and 259.2 providing for the vocational rehabilitation of ~~persons disabled in industry or otherwise~~ individuals with disabilities. The board for vocational education shall adopt rules under chapter 17A for the administration of this chapter.

Sec. 7. Section 259.4, Code 1993, is amended to read as follows:

259.4 DUTIES OF DIVISION.

The division of vocational rehabilitation services shall:

1. Cooperate with the secretary of education in the administration of the federal ~~acts~~ law cited in section 259.1.

2. Administer legislation pursuant to the federal ~~acts~~ law cited in section 259.1, and direct the disbursement and administer the use of funds provided by the federal government and this state for the vocational rehabilitation of ~~persons disabled in industry or otherwise and their return to civil employment~~ individuals with disabilities.

3. Study and make investigations relating to the vocational rehabilitation needs of ~~persons disabled in industry or otherwise~~ individuals with disabilities and ~~their return to civil employment and~~ cooperate with the individuals, or the individuals' parents or guardians and others as appropriate, to formulate ~~plans for the vocational~~ and implement individualized written rehabilitation ~~of such persons~~ programs for the employment of the individual.

4. ~~Make surveys with the~~ Conduct continuing statewide studies of the needs of individuals with disabilities within the state and how these needs may be most effectively met in cooperation ~~of~~ with the state commissioner of labor, ~~and~~ the state industrial commissioner ~~to assist~~ and other entities interested in the vocational rehabilitation of ~~persons disabled in industry or otherwise and their return to civil employment~~ individuals with disabilities.

5. Maintain a record of ~~persons disabled in industry or otherwise~~ individuals with disabilities together with measures taken for their rehabilitation.

6. Utilize in the rehabilitation of ~~persons disabled in industry or otherwise~~ individuals with disabilities existing educational and other facilities as are advisable and practicable, including public and private educational institutions, public or private establishments, plants, factories, and the services of individuals specially qualified for the instruction and vocational rehabilitation of ~~handicapped persons~~ individuals with disabilities.

7. Promote the establishment and assist in the development of training agencies for the vocational rehabilitation of ~~persons disabled in industry or otherwise~~ individuals with disabilities.

8. Supervise the ~~training of persons disabled in industry or otherwise~~ rehabilitation progress of individuals with disabilities and confer with the individuals or their ~~relatives~~ parents or guardians and others, as appropriate, concerning their vocational rehabilitation.

9. ~~Attempt to place vocationally rehabilitated persons in suitable remunerative occupations, including supervision~~ Provide placement services to individuals with disabilities directed toward competitive, integrated employment, including follow-up services for a reasonable time after ~~return to civil~~ employment begins.

10. ~~Utilize the facilities of public and private agencies as practicable in securing employment for persons disabled in industry or otherwise; and a public agency shall cooperate with the division for the purpose stated.~~

~~11.~~ Cooperate with an agency of the federal government or of the state, or of a county or other municipal authority within the state, or any other agency, public or private, in carrying out the purposes of this chapter.

~~12~~ 11. Do ~~all~~ those things necessary to secure the rehabilitation of those entitled to the benefits of this chapter, including but not limited to, the use of public agencies and community rehabilitation programs as practicable in securing employment for individuals with disabilities.

~~13~~ 12. Report biennially to the governor the conditions of vocational rehabilitation within the state, designating the educational institutions, establishments, plants, factories, and other agencies in which training is being given, and include a detailed statement of the expenditures of the state and federal funds in the rehabilitation of ~~persons disabled in industry or otherwise~~ individuals with disabilities.

~~14~~ 13. Provide services for the vocational rehabilitation of ~~severely handicapped persons~~ individuals with severe disabilities and others entitled to the benefits of this chapter, including the establishment and operation of community rehabilitation ~~facilities and workshops~~ programs.

~~15~~ 14. Provide rehabilitation services to ~~homebound and other handicapped~~ individuals with severe disabilities who are homebound, and other individuals with severe disabilities, who can wholly or substantially achieve an ability ~~of self-help as to dispense or largely dispense with the need of an attendant~~ to live independently.

~~16~~ 15. Provide financial and other necessary assistance to public or private agencies in the development, expansion, operation, or maintenance of ~~sheltered workshops or other~~ community rehabilitation ~~facilities~~ programs needed for the rehabilitation of ~~the disabled~~ individuals with disabilities.

~~17. Provide vocational rehabilitation services to socially disadvantaged persons who are substantially impaired in their ability to earn a living. This may include but is not limited to recipients of public assistance, inmates of correctional institutions or rejectees of the selective service system, who because of lack of training, experience, skills, or other factors which if corrected would lead to self-support instead of dependency.~~

Sec. 8. Section 259.5, Code 1993, is amended to read as follows:

259.5 PLAN OF CO-OPERATION.

The division shall work with the state labor commissioner and the state industrial commissioner as administrator of the workers' compensation law to formulate a plan of co-operation in accordance with this chapter and the federal ~~acts~~ law cited in section 259.1. The plan shall be effective when approved by the governor of the state. A plan approved by the governor under this section prior to July 1, 1986, remains in effect until changed under this section.

Sec. 9. Section 259.6, Code 1993, is amended to read as follows:

259.6 GIFTS AND DONATIONS.

The division may receive gifts and donations from either public or private sources offered unconditionally or under conditions related to the vocational rehabilitation of ~~persons disabled in industry or otherwise~~ individuals with disabilities that are consistent with this chapter.

Sec. 10. Section 259.7, Code 1993, is amended to read as follows:

259.7 FUND.

All the moneys received as gifts or donations shall be deposited in the state treasury and shall constitute a permanent fund to be called the special fund for the vocational rehabilitation of ~~disabled persons~~ individuals with disabilities, to be used by the ~~said~~ board in carrying out the provisions of this chapter or for related purposes ~~related thereto~~.

Approved April 25, 1994

CHAPTER 1110

MOBILE, MODULAR, AND MANUFACTURED HOMES — TAXATION AND OTHER MATTERS

S.F. 2190

AN ACT relating to the regulation, location, and taxation of mobile, modular, and manufactured homes.

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

Section 1. Section 335.30, Code Supplement 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 permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot, and shall require that the home is assessed and taxed as a site-built dwelling. A zoning ordinance or other regulation shall not require a perimeter foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. A county shall not require more than one permanent foundation system for a manufactured home. For purposes of this section, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the permanent 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. § 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. 2. Section 414.28, Code Supplement 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 permanent foundation system, set-back, and minimum square footage which would apply to a site-built, single family dwelling on the same lot, and shall require that the home is assessed and taxed as a site-built dwelling. A zoning ordinance or other regulation shall not require a perimeter foundation system for a manufactured home which is incompatible with the structural design of the manufactured home structure. A city shall not require more than one permanent foundation system for a manufactured home. For purposes of this section, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site. When units are located outside a mobile home park, requirements may be imposed which ensure visual compatibility of the permanent 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. § 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. 3. Section 435.1, subsection 1, Code 1993, is amended to read as follows:

1. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A "mobile home" is not built to a mandatory building code, contains no state or federal seals, and was built before June 15, 1976. If a mobile home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.

Sec. 4. Section 435.1, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Home" means a mobile home, a manufactured home, or a modular home.

NEW SUBSECTION. 1B. "Manufactured home" is a factory-built structure built under authority of 42 U.S.C. § 5403, is required by federal law to display a seal from the United States department of housing and urban development, and was constructed on or after June 15, 1976. If a manufactured home is placed in a mobile home park, the home must be titled and is subject to the mobile home square foot tax. If a manufactured home is placed outside a mobile home park, the home is to be assessed and taxed as real estate.

Sec. 5. Section 435.1, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

"Mobile home park" shall mean any site, lot, field or tract of land under common ownership upon which two or more occupied mobile homes, manufactured homes, modular homes or a combination of the homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park.

Sec. 6. Section 435.1, subsection 3, Code 1993, is amended by striking the subsection and inserting the following:

3. "Modular home" means a factory-built structure built on a permanent chassis which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa state building code for modular factory-built structures, and must display the seal issued by the state building code commissioner. If a modular home is placed in a mobile home park, the home is subject to the annual tax as required by section 435.22. If a modular home is placed outside a mobile home park, the home shall be considered real property and is to be assessed and taxed as real estate.

Sec. 7. Section 435.22, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The owner of each mobile home, manufactured home, or modular home, located within a mobile home park shall pay to the county treasurer an annual tax. However, when the owner is any educational institution and the ~~mobile~~ home is used solely for student housing or when the owner is the state of Iowa or a subdivision ~~thereof~~ of the state, the owner shall be exempt from the tax. The annual tax shall be computed as follows:

Sec. 8. Section 435.22, subsections 1, 2, and 3, Code 1993, are amended to read as follows:

1. Multiply the number of square feet of floor space each ~~mobile~~ home contains when parked and in use by twenty cents. In computing floor space, the exterior measurements of the ~~mobile~~ home shall be used as shown on the certificate of ~~registration and~~ title, but not including any area occupied by a hitching device.

2. If the owner of the ~~mobile~~ home is an Iowa resident, has attained the age of eighteen years on or before December 31 of the base year, and has an income when included with that

of a spouse which is less than six thousand dollars per year, the annual tax shall not be imposed on the ~~mobile~~ home. If the income is six thousand dollars or more but less than fourteen thousand dollars, the annual tax shall be computed as follows:

If the Household Income is:	Annual Tax Per Square Foot:
$ 6,000 — 6,999.99	3.0 cents
7,000 — 7,999.99	6.0
8,000 — 9,999.99	10.0
10,000 — 11,999.99	13.0
12,000 — 13,999.99	15.0

For purposes of this subsection "income" means income as defined in section 425.17, subsection 7, and "base year" means the calendar year preceding the year in which the claim for a reduced rate of tax is filed. The ~~mobile~~ home reduced rate of tax shall only be allowed on the ~~mobile~~ home in which the claimant is residing at the time in which the claim for a reduced rate of tax is filed.

3. The amount thus computed shall be the annual tax for all ~~mobile~~ homes, except as follows:

a. For the sixth through ninth years after the year of manufacture the annual tax is ninety percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

b. For all ~~mobile~~ homes ten or more years after the year of manufacture the annual tax is eighty percent of the tax computed according to subsection 1 or 2 of this section, whichever is applicable.

Sec. 9. Section 435.22, subsection 5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

5. A claim for credit for ~~mobile~~ home tax due shall not be paid or allowed unless the claim is actually filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the ~~mobile~~ home taxes are due and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the ~~mobile~~ home for six months or more during the fiscal year beginning in the calendar year in which the claim is filed. The county treasurer shall submit the claim to the director of revenue and finance on or before August 1 each year.

Sec. 10. Section 435.23, Code 1993, is amended to read as follows:

435.23 EXEMPTIONS — PRORATING TAX.

The manufacturer's and dealer's inventory of mobile homes, manufactured homes, or modular homes not in use as a place of human habitation shall be exempt from the annual tax. All travel trailers shall be exempt from this tax. ~~Mobile~~ The homes and travel trailers in the inventory of manufacturers and dealers shall be exempt from personal property tax. ~~Mobile~~ The homes coming into Iowa from out of state and located in a mobile home park shall be liable for the tax computed pro rata to the nearest whole month, for the time ~~such mobile~~ the home is actually situated in Iowa.

Sec. 11. Section 435.24, subsections 1 through 6, Code 1993, are amended to read as follows:

1. The annual tax is due and payable to the county treasurer on or after July 1 in each fiscal year and is collectible in the same manner and at the same time as ordinary taxes as provided in sections 445.36, 445.37, and 445.39. Interest at the rate prescribed by law shall accrue on unpaid taxes. Both installments of taxes may be paid at one time. The September installment represents a tax period beginning July 1 and ending December 31. The March installment represents a tax period beginning January 1 and ending June 30. A mobile home, manufactured home, or modular home coming into this state from outside the state, put in use from a dealer's inventory, or put in use at any time after July 1 or January 1, and located in a mobile home park, is subject to the taxes prorated for the remaining unexpired months of the tax period, but the purchaser is not required to pay the tax at the time of purchase. Interest attaches the following April 1 for taxes prorated on or after October 1. Interest attaches the following

October 1 for taxes prorated on or after April 1. If the taxes are not paid, the county treasurer shall send a statement of delinquent taxes as part of the notice of tax sale as provided in section 446.9. The owner of a ~~mobile~~ home who sells the ~~mobile~~ home between July 1 and December 31 and obtains a tax clearance statement is responsible only for the September tax payment and is not required to pay taxes for subsequent tax periods. If the owner of a ~~mobile~~ home located in a mobile home park sells the ~~mobile~~ home, obtains a tax clearance statement, and obtains a replacement ~~mobile~~ home to be located in a mobile home park, the owner shall not pay taxes under this chapter for the newly acquired ~~mobile~~ home for the same tax period that the owner has paid taxes on the ~~mobile~~ home sold. Interest for delinquent taxes shall be calculated to the nearest whole dollar. In calculating interest each fraction of a month shall be counted as an entire month.

2. ~~Mobile~~ The home owners upon issuance of a certificate of title or upon transporting to a new site shall file the address, township, and school district, of the location where the ~~mobile~~ home is parked with the county treasurer's office. Failure to comply is punishable as set out in section 435.18. When the new location is outside of a mobile home park, the county treasurer shall provide to the assessor a copy of the tax clearance statement for purposes of assessment as real estate on the following January 1.

3. Each mobile home park owner shall notify monthly the county treasurer concerning any ~~mobile~~ home ~~or manufactured home~~ arriving in or departing from the park without a tax clearance statement. The records of the owner shall be open to inspection by a duly authorized representative of any law enforcement agency. Any property owner, manager or tenant shall report to the county treasurer ~~mobile~~ homes parked upon any property owned, managed, or rented by that person.

4. The tax is a lien on the vehicle senior to any other lien upon it except a judgment obtained in an action to dispose of an abandoned ~~mobile~~ home under section 555B.8. The ~~mobile~~ home bearing a current registration issued by any other state and remaining within this state for an accumulated period not to exceed ninety days in any twelve-month period is not subject to Iowa tax. However, when one or more persons occupying a ~~mobile~~ home bearing a foreign registration are employed in this state, there is no exemption from the Iowa tax. This tax is in lieu of all other taxes general or local on a ~~mobile~~ home.

~~5. A modular home as defined by this chapter is not subject to or assessed the annual tax pursuant to this section, but shall be assessed and taxed as real estate pursuant to chapter 427.~~

~~6~~ 5. Before a ~~mobile~~ home may be moved from its present site by ~~the owner or the owner's assignee~~ any person, a tax clearance statement in the name of the owner must be obtained from the county treasurer of the county where the present site is located certifying that taxes are not owing under this section for previous years and that the taxes have been paid for the current tax period. When the home is moved to another county in this state, the county treasurer shall forward a copy of the tax clearance statement to the county treasurer of the county in which the home is being relocated. However, a tax clearance statement is not required for a ~~mobile~~ home in a manufacturer's or dealer's stock which is not used as a place for human habitation. A tax clearance form is not required to move an abandoned ~~mobile~~ home. A tax clearance form is not required in eviction cases provided the mobile home park owner or manager advises the county treasurer that the tenant is being evicted. If a dealer acquires a ~~mobile~~ home from a person other than a manufacturer, the person shall provide a tax clearance statement in the name of the owner of record to the dealer. The tax clearance statement shall be provided by the county treasurer in a method prescribed by the department of transportation.

Sec. 12. Section 435.24, subsection 7, paragraph a, Code 1993, is amended to read as follows:

a. As an alternative to the semiannual or annual payment of taxes, the county treasurer may accept partial payments of current year ~~mobile~~ home taxes. A minimum payment amount shall be established by the treasurer. The treasurer shall transfer amounts from each taxpayer's account to be applied to each semiannual tax installment prior to the delinquency dates specified in section 445.37 and the amounts collected shall be apportioned by the tenth of the

month following transfer. If, prior to the due date of each semiannual installment, the account balance is insufficient to fully satisfy the installment, the treasurer shall transfer and apply the entire account balance, leaving an unpaid balance of the installment. Interest shall attach on the unpaid balance in accordance with section 445.39. Unless funds sufficient to fully satisfy the delinquency are received, the treasurer shall collect the unpaid balance as provided in sections 445.3 and 445.4 and chapter 446. Any remaining balance in a taxpayer's account in excess of the amount needed to fully satisfy an installment shall remain in the account to be applied toward the next semiannual installment. Any interest income derived from the account shall be deposited in the county's general fund to cover administrative costs. The treasurer shall send a notice with the tax statement or by separate mail to each taxpayer stating that, upon request to the treasurer, the taxpayer may make partial payments of current year ~~mobile~~ home taxes.

Sec. 13. Section 435.25, Code 1993, is amended to read as follows:

435.25 APPORTIONMENT AND COLLECTION OF TAXES.

The tax and interest for delinquent taxes collected under section 435.24 shall be apportioned in the same manner as though they were the proceeds of taxes levied on real property at the same location as the ~~mobile~~ home.

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

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

Sec. 14. Section 435.26, Code 1993, is amended to read as follows:

435.26 CONVERSION TO REAL PROPERTY.

~~No mobile home shall be assessed for property tax nor be eligible for homestead tax credit or military service tax credit unless:~~

~~1. The mobile home owner intends to convert the mobile home to real estate and does so by:~~

~~a. Attaching the mobile home to a permanent foundation.~~

~~b. Modification of the vehicular frame for placement on a permanent foundation.~~

1. a. A mobile home, modular home, or manufactured home which is located outside a mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes. A home, after conversion to real estate, is eligible for the homestead tax credit and the military tax exemption as provided in sections 425.2 and 427.3.

~~c~~ b. If a security interest is noted on the certificate of title, ~~tendering~~ the homeowner shall tender to the secured party a mortgage on the real estate upon which the ~~mobile~~ home is to be located in the unpaid amount of the secured debt, and with the same priority as or a higher priority than the secured party's security interest, or ~~obtaining~~ shall obtain the written consent of the secured party to the conversion, in which latter case the lien notation on the certificate of title shall suffice to preserve the lienholder's security in the ~~mobile~~ home separate from any interest in the land.

2. After complying with subsection 1, the owner shall notify the assessor who shall inspect the new premises for compliance. If a security interest is noted on the certificate of title, the assessor shall require an affidavit, as defined in section 622.85, from the ~~mobile~~ home owner, declaring that the owner has complied with subsection 1, paragraph ~~"c"~~ "b", and setting forth the method of compliance.

a. If compliance with subsection 1, paragraph ~~"e"~~ "b", has been accomplished by the secured party accepting the tender of a mortgage, the assessor shall collect the ~~mobile~~ home vehicle title and enter the property upon the tax rolls.

b. If compliance with subsection 1, paragraph ~~"e"~~ "b", has been accomplished by the secured party consenting to the conversion without accepting a mortgage, the secured party shall retain the ~~mobile~~ home vehicle title and the assessor shall note the conversion on the assessor's records and enter the property upon the tax rolls. So long as a security interest is noted on the certificate of title, the title to the ~~mobile~~ home will not be merged with title to the land, and the sale or foreclosure of an interest in the land shall not affect title to the ~~mobile~~ home or any security interest in the ~~mobile~~ home.

Sec. 15. Section 435.27, Code 1993, is amended to read as follows:

435.27 CONVERSION TO MOBILE HOME.

1. A mobile home, manufactured home, or modular home converted to real estate under section 435.26 may be reconverted to a ~~mobile~~ home as provided in this section when it is moved to a mobile home park or a dealer's inventory. When the home is located within a mobile home park, the home shall be taxed pursuant to section 435.22, subsection 1.

2. If the vehicular frame of the ~~former~~ ~~mobile~~ home can be modified to return it to the status of a mobile home~~,~~ or manufactured home, the owner or a secured party holding a mortgage or certificate of title pursuant to section 435.26 who has obtained possession of the ~~mobile~~ home may apply to the county treasurer as provided in section 321.20 for a certificate of title for the ~~mobile~~ home. If a mortgage exists on the real estate, a security interest in the ~~mobile~~ home shall be given to a secured party not applying for reconversion and noted on the certificate of title with the same priority or a higher priority than the secured party's mortgage interest. A reconversion shall not occur without the written consent of every secured party holding a mortgage or certificate of title.

If the secured party has elected to retain the ~~mobile~~ home vehicle title pursuant to section 435.26, subsection 2, paragraph "b", an owner applying for reconversion shall present to the county treasurer written consent to the reconversion from all secured parties and an affirmation from the secured party holding the title that the title is in its possession and is intact. Upon receipt of the affirmation, the county treasurer shall notify the assessor of the reconversion, which notification constitutes compliance by the owner with subsection 3.

3. After ~~complying~~ compliance with subsection 2 and receipt of the title, the owner shall notify the assessor of the reconversion. The assessor shall remove the assessed valuation of the ~~mobile~~ home from assessment rolls as of the succeeding January 1 when the ~~mobile~~ home becomes subject to taxation as provided under section 435.24.

Sec. 16. NEW SECTION. 435.28 COUNTY TREASURER TO NOTIFY ASSESSOR.

Upon issuance of a certificate of title to a mobile home or manufactured home which is not located in a mobile home park or dealer's inventory, the county treasurer shall notify the assessor of the existence of the home for tax assessment purposes.

Sec. 17. Section 435.29, Code 1993, is amended to read as follows:

435.29 CIVIL PENALTY.

The ~~owner of a mobile home~~ person who moves the mobile home, manufactured home, or modular home without having obtained a tax clearance statement as provided in section 435.24 shall pay a civil penalty of one hundred dollars. The penalty money shall be credited to the general fund of the county.

Sec. 18. Section 435.33, Code 1993, is amended to read as follows:

435.33 RENT REIMBURSEMENT.

A ~~mobile~~ home owner who qualifies for a reduced tax rate provided in section 435.22 and who rents a space upon which to set the ~~mobile~~ home shall be entitled to the protections provided in sections 425.33 to 425.36 and if the ~~mobile~~ home owner who qualifies for a reduced tax rate

believes that a landlord has increased the ~~mobile~~ home owner's rent because the ~~mobile~~ home owner is eligible for a reduced tax rate, the provisions of sections 425.33 and 425.36 shall be applicable.

Sec. 19. NEW SECTION. 435.35 EXISTING HOME OUTSIDE OF MOBILE HOME PARK – EXEMPTION.

A taxable mobile home, manufactured home, or modular home which is not located in a mobile home park as of the effective date of this Act, shall be assessed and taxed as real estate. The home is also exempt from the permanent foundation requirements of this chapter until the home is relocated.

Sec. 20. Section 441.17, subsection 10, Code 1993, is amended to read as follows:

10. Measure the exterior length and exterior width of all mobile homes and manufactured homes except those for which measurements are contained in the manufacturer's and importer's certificate of origin, and report the information to the county treasurer. Check all mobile homes for inaccuracy of measurements as necessary or upon written request of the county treasurer and report the findings immediately to the county treasurer. ~~If a mobile home has been converted to real estate the title shall be collected and returned to the county treasurer for cancellation. If taxes due for prior years have not been paid, the assessor shall collect the unpaid taxes due as a condition of conversion.~~ The assessor shall make frequent inspections and checks within the assessor jurisdiction of all mobile homes and mobile home parks and make all the required and needed reports to carry out the purposes of this section.

Sec. 21. Section 555B.1, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Mobile home" includes "manufactured homes" and "modular homes" as those terms are defined in section 435.1, if the manufactured homes or modular homes are located in a mobile home park.

Sec. 22. Section 555B.2, subsection 2, paragraph a, Code Supplement 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 county where the mobile home and personal property 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, storage, 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 retained by the county treasurer. A sheriff's sale transfers to the purchaser for value, all of the mobile home owner's rights in the mobile home and personal property, and discharges the real property owner's interest in the mobile home and personal property, and discharges the tax lien on the mobile home. If the purchaser acts in good faith the purchaser takes free of all rights and interests even though the real property owner fails to comply with the requirements of this chapter or of any judicial proceedings.

Sec. 23. Section 562B.7, subsection 5, Code 1993, is amended to read as follows:

5. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive

power not registered as a motor vehicle in Iowa. References in this chapter to "mobile home" includes "manufactured homes" and "modular homes" as those terms are defined in section 435.1, if the manufactured homes or modular homes are located in a mobile home park.

Sec. 24. EFFECTIVE DATE – APPLICABILITY. This Act takes effect July 1, 1994, however, the tax provisions of this Act take effect January 1, 1995, and apply to mobile homes, manufactured homes, or modular homes which are subject to the annual tax imposed pursuant to section 435.22 or to assessment and taxation as real estate as otherwise provided by law.

Sec. 25. REPEALER. Section 435.34, Code 1993, is repealed.

Approved April 25, 1994

CHAPTER 1111

NONRESIDENT DEER AND TURKEY HUNTING LICENSES

S.F. 2206

AN ACT relating to the licensing of nonresident hunters of deer and turkey and providing effective and applicability date provisions.

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

Section 1. Section 483A.7, subsection 3, Code 1993, is amended to read as follows:

3. A nonresident wild turkey hunter is required to have only a nonresident wild turkey hunting license and a wildlife habitat stamp. The commission shall annually limit to ~~six hundred~~ two thousand licenses the number of nonresidents allowed to have wild turkey hunting licenses. The number of nonresident wild turkey hunting licenses shall be determined as provided in section 481A.38. The commission shall allocate the nonresident wild turkey hunting licenses issued among the zones based on the populations of wild turkey. A nonresident applying for a wild turkey hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

Sec. 2. Section 483A.8, subsection 3, Code 1993, is amended to read as follows:

3. A nonresident deer hunter is required to have only a nonresident deer license and a wildlife habitat stamp. The commission shall annually limit to ~~one~~ five thousand ~~two hundred~~ licenses the number of nonresidents allowed to have deer hunting licenses. The number of nonresident deer hunting licenses shall be determined as provided in section 481A.38. The commission shall allocate the nonresident deer hunting licenses issued among the zones based on the populations of deer. However, a nonresident applicant may request one or more hunting zones, in order of preference, in which the applicant wishes to hunt. If the request cannot be fulfilled, the applicable fees shall be returned to the applicant. A nonresident applying for a deer hunting license must exhibit proof of having successfully completed a hunter safety and ethics education program as provided in section 483A.27 or its equivalent as determined by the department before the license is issued.

Sec. 3. Section 483A.30, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

483A.30 NONRESIDENT DEER AND TURKEY LICENSE FEES.

Notwithstanding any limitation on full-time equivalent or permanent positions imposed as otherwise provided by law or by the department of management or any point limitation on personnel imposed by the department of management, the department of natural resources

shall use the revenues received from the nonresident deer and wild turkey hunting license fees to employ as many new full-time conservation officers as possible with the revenues received until ninety-nine conservation officers are employed in nonsupervisory positions.

Sec. 4. EFFECTIVE DATE. This Act takes effect December 15, 1994, and applies to the 1995 license year and each subsequent license year.

Approved April 25, 1994

CHAPTER 1112

HUMAN SERVICES – ENFORCEMENT – LIENS – REPORTS

S.F. 2250

AN ACT relating to the department of human services by establishing debt liens based upon the inappropriate obtaining of benefits from the department of human services and reporting of assets and income of a medical assistance recipient by a conservator.

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

Section 1. NEW SECTION. 10A.108 LIEN OF ENTITLEMENT BENEFITS INAPPROPRIATELY OBTAINED FROM THE DEPARTMENT OF HUMAN SERVICES – DEBT ESTABLISHED – COLLECTION – ACTION AUTHORIZED.

1. If a person refuses or neglects to repay benefits inappropriately obtained from the department of human services, the amount inappropriately obtained, including any interest, penalty, or costs attached to the amount, constitutes a debt and is a lien in favor of the state upon all property and any rights or title to or interest in property, whether real or personal, belonging to the person for the period established in subsection 2, with the exception of property which is exempt from execution pursuant to chapter 627.

A lien under this section shall not attach to any amount of inappropriately obtained benefits, or portions of the benefits, attributable to errors by the department of human services. Liens shall only attach to the amounts of inappropriately obtained benefits or portions of the benefits which were obtained due to false, misleading, incomplete, or inaccurate information submitted by a person in connection with the application for or receipt of benefits.

2. a. The lien attaches at the time the notice of the lien is filed under subsection 3, and continues for ten years from that date, unless released or otherwise discharged at an earlier time.

b. The lien may be extended, within ten years from the date of attachment, if a person files a notice with the county recorder or other appropriate county official of the county in which the property is located at the time of filing the extension. From the time of the filing of the notice, the lien period shall be extended for ten years to apply to the property in the county in which the notice is filed, unless released or otherwise discharged at an earlier time. The number of extensions is not limited.

c. The director shall discharge any lien which is allowed to lapse and may charge off any account and release the corresponding lien before the lien has lapsed if the director determines, under uniform rules prescribed by the director, that the account is uncollectible or collection costs involved would not warrant collection of the amount due.

3. To preserve the lien against subsequent mortgagees, purchasers, or judgment creditors, for value and without notice of the lien, on any property located in a county, the director shall file a notice of the lien with the recorder of the county in which the property is located at the time of filing of the notice.

4. The county recorder of each county shall prepare and maintain in the recorder's office an index of liens of debts established based upon benefits inappropriately obtained from and

owed the department of human services, which provides appropriate columns for all of the following data, under the names of debtors, arranged alphabetically:

a. The name of the debtor.

b. "State of Iowa, Department of Human Services" as claimant.

c. The time that the notice of the lien was received.

d. The date of notice.

e. The amount of the lien currently due.

f. The date of the assessment.

g. The date of satisfaction of the debt.

h. Any extension of the time period for application of the lien and the date that the notice for extension was filed.

5. The recorder shall endorse on each notice of lien the day and time received and shall preserve the notice. The recorder shall index the notice in the index book and shall record the lien in the manner provided for recording real estate mortgages. The lien shall be effective from the time of the indexing.

6. The department shall pay, from moneys appropriated to the department for this purpose, a recording fee as provided in section 331.604, for the recording of the lien, or for satisfaction of the lien.

7. Upon payment of a debt for which the director has filed notice with a county recorder, the director shall file a satisfaction of the debt with the recorder and the recorder shall enter the satisfaction on the notice on file in the recorder's office.

8. The department of inspections and appeals, as provided in this chapter and chapter 626, shall proceed to collect all debts owed the department of human services as soon as practicable after the debt becomes delinquent. If service has not been made on a distress warrant by the officer to whom addressed within five days from the date the distress warrant was received by the officer, the authorized investigators of the department of inspections and appeals may serve and make return of the warrant to the clerk of the district court of the county named in the distress warrant, and all subsequent procedures shall be in compliance with chapter 626.

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

10. The attorney general, upon the request of the director of inspections and appeals, shall bring an action, as the facts may justify, without bond, to enforce payment of any debts under this section, and in the action the attorney general shall have the assistance of the county attorney of the county in which the action is pending.

11. The remedies of the state shall be cumulative and no action taken by the director of inspections and appeals or attorney general shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other remedy provided by law.

Sec. 2. Section 633.641, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The conservator shall report to the department of human services the assets and income of any ward receiving medical assistance under chapter 249A. Reports shall be made upon establishment of a conservatorship for an individual applying for or receiving medical assistance, upon application for benefits on behalf of the ward, upon annual or semiannual review of continued medical assistance eligibility, when any significant change in principal or income occurs in the conservatorship account, or as otherwise

requested by the department of human services. Written reports shall be provided to the department of human services county office for the county in which the ward resides or the county office in which the ward's medical assistance is administered.

Approved April 25, 1994

CHAPTER 1113

STORAGE OF BULK GRAIN

S.F. 2263

AN ACT providing for the storage of bulk grain by producers owning the grain.

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

Section 1. Section 203C.16, Code 1993, is amended to read as follows:

203C.16 LICENSE REQUIRED FOR THE STORAGE OF BULK GRAIN.

~~It shall be unlawful for any~~ A person other than a licensed warehouse operator ~~to~~ shall not place in storage or ~~to~~ accept for storage any bulk grain~~, and it shall be unlawful for any~~. A person ~~to~~ shall not place bulk grain in storage in a warehouse other than a licensed warehouse. This section shall not apply to any of the following:

1. The acceptance and storage of bulk grain by a person bonded and licensed under the provisions of a federal law, ~~if and~~ to the extent that ~~such~~ the person is authorized under federal law to accept and store bulk grain~~, but such~~. However, the person shall comply with all other provisions of this chapter which do not conflict with such federal law. ~~This section shall not apply to the~~

2. The storage of bulk grain ~~owned~~ by ~~the~~ a person ~~storing the same~~ who owns all the stored bulk grain.

3. The storage of bulk grain by more than one person, if all of the following apply:

a. The bulk grain was jointly produced by all persons storing the grain. As used in this subsection, "jointly produced" includes but is not limited to grain owned by a landlord who receives a share of agricultural products as rent.

b. The bulk grain is stored on the property owned or leased by one of the persons jointly producing the grain.

c. No person other than persons jointly producing the grain owns the stored bulk grain.

Approved April 25, 1994

CHAPTER 1114

FAMILY INVESTMENT AND JOBS PROGRAMS AND RELATED MATTERS

S.F. 2288

AN ACT amending statutory provisions involving the council on human investment and the federal-state family investment and job opportunities and basic skills programs in accordance with federal requirements and providing an effective date.

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

Section 1. Section 8A.1, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

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. In addition to the nine voting members, the council shall include four members of the general assembly with not more than one member from each chamber being from the same political party. The two senators shall be designated by the president of the senate after consultation with the majority and minority leaders of the senate. The two representatives shall be designated by the speaker of the house of representatives after consultation with the majority and minority leaders of the house of representatives. Legislative members shall serve in an ex-officio, nonvoting capacity. A legislative member is eligible for per diem and expenses as provided in section 2.10. 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:

Sec. 2. Section 217.11, subsection 6, Code Supplement 1993, is amended by striking the subsection.

Sec. 3. Section 217.11, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

The department of human services shall contract with the department of ~~health and~~ human rights to staff and administer grants provided under section 217.12.

Sec. 4. Section 217.12, subsection 3, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

Subject to the availability of funds for this purpose, award ~~demonstration~~ grants to public or private organizations ~~submitting grant proposals to provide~~ for provision of family development services to families at risk of long-term welfare dependency. Grant proposals for the family development and self-sufficiency grant program shall include the following elements:

Sec. 5. Section 217.12, subsection 3, paragraph a, Code Supplement 1993, is amended to read as follows:

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 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 family investment program, and participation in the 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~~ grant.

Sec. 6. Section 217.12, subsection 4, Code Supplement 1993, is amended to read as follows:

4. In cooperation with the legislative fiscal bureau, develop measures to independently evaluate the effectiveness of any ~~demonstration program~~ grant funded under the program, that include measurement of the ~~program's~~ grantee's effectiveness in meeting its goals in a quantitative sense through reduction in length of stay on welfare programs or a reduced need for other state child and family welfare services. Families referred to the ~~demonstration programs~~ program shall be ~~randomly~~ selected from those meeting the criteria established in the ~~demonstration programs~~ program as being at risk.

Sec. 7. Section 217.12, subsection 6, Code Supplement 1993, is amended to read as follows:

6. Seek additional support for the funding of ~~demonstration~~ grants under the program, including but not limited to, ~~demonstration~~ funds available through the federal government in serving families at risk of long-term welfare dependency, and private foundation grants.

Sec. 8. Section 239.1A, Code Supplement 1993, is amended to read as follows:

239.1A FAMILY INVESTMENT PROGRAM.

1. 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.

2. Effective October 1, 1993, the family investment program under this chapter and the JOBS program under chapter 249C shall be administered in this state under provisions of the federal waiver granted by the United States department of health and human services pursuant to the request submitted in accordance with 1993 Iowa Acts, chapter 97. The initial federal waiver requires that approximately ten percent of recipient families residing in nine counties shall have eligibility determined, receive assistance, and are subject to sanctions and other requirements based upon the federal requirements that would be in effect for all recipients in this state if the federal waiver had not been implemented. The remainder of the population of recipients of assistance under this chapter are subject to different federal waiver provisions. The scope of the different waiver provisions includes but is not limited to initial and continuing eligibility determinations, sanctions for noncompliance, recipient accumulation of assets and savings, and requirements for recipients to enter into a family investment agreement with the department. Administrative rules adopted by the department under the federal waiver provisions shall reflect the two populations created by the waiver and shall specify the particular requirements which apply to each of the populations. In accordance with federal waiver provisions, the department may apply the provisions of this chapter to one population differently than the other.

Sec. 9. Section 239.18, Code 1993, is amended to read as follows:

239.18 RULES.

~~In order to provide a uniform statewide program for aid to dependent children, the~~ The department shall adopt rules pursuant to chapter 17A necessary to implement this chapter in accordance with any applicable federal waiver requirements and to ensure federal financial participation in the program.

Sec. 10. Section 239.21, Code 1993, is amended to read as follows:

239.21 TRANSITIONAL CHILD CARE ASSISTANCE.

A recipient who loses eligibility for assistance under this chapter because of an increase in earned income, increased hours of employment, or loss of the earned income disregards is eligible to receive transitional child care assistance~~,~~. The transitional child care assistance shall be provided in accordance with the provisions of the federal Family Support Act of 1988, Title III, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq., for a period of twelve months following the loss of assistance or for a period of twenty-four months, depending upon the applicability of federal waiver provisions. The department shall deliver the transitional child care assistance through a vendor voucher payment or purchase of service system which requires the recipient to contribute to the cost of the assistance in accordance with a sliding-scale fee established by rule.

Sec. 11. Section 249C.1, subsection 3, Code 1993, is amended to read as follows:

3. "Eligible person" includes each person who is receiving public assistance or who lives in the same household as a recipient of public assistance and whose needs are taken into account in determining the assistance payment. However, unless otherwise established pursuant to requirements under the federal waiver provisions described in section 239.1A or other federal law or regulation, the following ~~are not~~ persons shall not be defined as "eligible persons" unless ~~they~~ the persons voluntarily request to be included:

a. A person who is under the age of sixteen years.

b. A person who has attained the age of sixty-five years.

c. A person whose health or disability does not permit any kind of work or training.

d. A person who is already engaged in an adequate full-time program of work, training, or school.

e. A person who is required to be present and is actually present in the home on a substantially continuous basis because of the illness or incapacity of another member of the household.

f. A person who is required to be present and is actually present in the home on a substantially continuous basis for the purpose of child care.

g. A person who is not an eligible person pursuant to rules adopted by the director and as required by the federal Family Support Act of 1988, Title II, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq.

Sec. 12. Section 249C.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. "JOBS program" or "program" means the job opportunities and basic skills program implemented by the state under the provisions of 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 under other applicable federal waivers and requirements.

Sec. 13. Section 249C.1, subsection 4, Code 1993, is amended to read as follows:

4. "Public assistance" means aid or assistance provided under the family investment program created in chapter 239.

Sec. 14. Section 249C.3, Code 1993, is amended to read as follows:

249C.3 ~~WORK AND TRAINING~~ JOBS PROGRAM.

The director shall establish a ~~work and training~~ state-level JOBS program for persons and members of families applying for and receiving public assistance. The requirements of the program shall vary for recipients of public assistance in accordance with the federal waiver provisions described in section 239.1A. The ~~division of job service of the~~ department of employment services, ~~the division of job training of~~ the department of economic development, and all state, county, and public educational agencies and institutions providing vocational rehabilitation, adult education, or vocational or technical training shall assist and ~~co-operate~~ cooperate in the program. ~~They~~ The departments, agencies, and institutions shall make agreements and arrangements for maximum ~~co-operation~~ cooperation and use of all available resources in the program. By mutual agreement the director may delegate any of the director's powers and duties under this chapter to ~~the division of job service of~~ the department of employment services or to ~~the division of job training of~~ the department of economic development.

Sec. 15. Section 249C.4, Code 1993, is amended to read as follows:

249C.4 ~~CO-OPERATION~~ COOPERATION.

The program shall provide for maximum ~~co-operation~~ cooperation with and participation in federal programs having similar purposes, but the state ~~work and training program~~ shall continue providing a state-level work and training program to recipients of public assistance whether or not federal programs and federal funds are available.

Sec. 16. Section 249C.6, Code 1993, is amended to read as follows:

249C.6 PARTICIPATION REQUIRED.

Except as modified by the federal waiver provisions described in section 239.1A or other requirement in federal law or regulation, the provisions of this section shall apply. Each eligible person shall be required to participate in the ~~work and training~~ JOBS program, to ~~co-operate~~

cooperate fully in the program, and to accept any reasonably suitable employment, training, or education offered to the person in connection with the program, as a condition of receiving public assistance. If the person fails or refuses to do so, the person shall not receive public assistance. The person's disqualification shall not disqualify other members of the person's family who are entitled to public assistance, except as required under the federal Family Support Act of 1988, Title II, Pub. L. No. 100-485, as codified in 42 U.S.C. § 602 et seq., ~~but their~~ and the federal waiver provisions. However, a disqualified person's public assistance shall not be paid to the disqualified person and shall be paid in a manner which will not permit the disqualified person to have access to the assistance funds. A person shall ~~not be disqualified~~ remain eligible for public assistance if it is impossible to arrange suitable work or training for the person.

Sec. 17. Section 249C.7, Code 1993, is amended to read as follows:

249C.7 PUBLIC OR PRIVATE TRAINING.

Work or training under the JOBS program may be furnished by public or private agencies, organizations, or companies, under rules adopted by the director.

Sec. 18. Section 249C.8, Code 1993, is amended to read as follows:

249C.8 HEALTH AND SAFETY.

The director shall establish and maintain reasonable standards for health, safety, and other conditions under the ~~work and training~~ JOBS program.

Sec. 19. Section 249C.9, Code 1993, is amended to read as follows:

249C.9 WORKERS' COMPENSATION LAW APPLICABLE.

Each eligible person, with respect to ~~work~~ employment performed under this chapter, shall be covered by the workers' compensation law or shall otherwise be provided with comparable protection.

Sec. 20. Section 249C.14, Code 1993, is amended to read as follows:

249C.14 TRANSFER OF FUNDS.

For the purposes of the ~~work and training~~ JOBS program, the director may use or transfer to any other agency any of the funds appropriated for public assistance and any other funds lawfully available. State and federal funds allocated to the program by the director and ~~the division of job service of~~ the department of employment services shall be at least equal to five percent of the total state and federal funds available to the department of human services for assistance under chapter 239, unless the director determines that a lesser amount is sufficient to provide an adequate ~~work and training~~ JOBS program for all eligible persons.

Sec. 21. Section 249C.16, Code 1993, is amended to read as follows:

249C.16 ELIGIBLE PERSONS NOT STATE EMPLOYEES.

~~No~~ An eligible person shall not be deemed to be an employee of the state or any of its subdivisions by reason of the person's participation in the ~~work and training~~ JOBS program. However, this section shall not prevent the person from having the status of an employee for the purposes of workers' compensation.

Sec. 22. Section 249C.17, Code 1993, is amended to read as follows:

249C.17 CHAPTER NOT TO INTERFERE WITH FEDERAL ASSISTANCE.

If ~~it is finally determined~~ the general assembly is not in session and the department determines that ~~any~~ a provision of this chapter would cause the ~~work and training~~ JOBS program to be ineligible for federal financial assistance which the state would otherwise receive, ~~such~~ the department may suspend the operation of the provision ~~may be suspended or modified~~ to the extent which is essential to obtain ~~such~~ the assistance under federal law or regulation. The department shall propose an amendment to such provision in the next session of the general assembly.

Sec. 23. Section 541A.1, subsection 2, Code Supplement 1993, is amended to read as follows:

2. "Administrator" means the ~~executive branch agency selected by the governor to administer individual development accounts~~ department of human services.

Sec. 24. Section 541A.4, subsection 1, Code Supplement 1993, is amended to read as follows:

1. For the five-year pilot phase period beginning ~~March 1, 1994, and ending February 28, 1999~~ January 1, 1995, 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.

Sec. 25. NEW SECTION. 541A.5 RULES.

The administrator, in consultation with the department of revenue and finance, may adopt administrative rules to implement the provisions of this chapter.

Sec. 26. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 25, 1994

CHAPTER 1115

LIMITATIONS ON JUDGMENTS

H.F. 307

AN ACT providing for limitations on judgments.

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

Section 1. Section 615.1, Code 1993, is amended to read as follows:

615.1 EXECUTION ON CERTAIN JUDGMENTS PROHIBITED.

From and after January 1, 1934, no judgment in an action for the foreclosure of a real estate mortgage, ~~or~~ deed of trust, or real estate contract upon property which at the time of judgment is either used for an agricultural purpose as defined in section 535.13 or a one-family or two-family dwelling which is the residence of the mortgagor, or in any action on a claim for rent or judgment assigned by a receiver of a closed bank or rendered upon credits assigned by the receiver of a closed bank when the assignee is not a trustee for depositors or creditors of the bank, the reconstruction finance corporation or any other federal governmental agency to which the bank or the receiver is or may be indebted shall be enforced and no execution issued thereon and no force or vitality given thereto for any purpose other than as a setoff or counterclaim after the expiration of a period of two years from the entry thereof. As used in this section, "mortgagor" means a mortgagor or a borrower executing a deed of trust as provided in chapter 654 or a vendee of a real estate contract.

Sec. 2. Section 615.3, Code 1993, is amended to read as follows:

615.3 FUTURE JUDGMENTS WITHOUT FORECLOSURE.

~~Judgments~~ A judgment hereafter rendered on a promissory ~~obligations~~ obligation secured by a mortgage, ~~or~~ deed of trust of real estate upon which at the time of the judgment is either used for an agricultural purpose as defined in section 535.13 or a one-family or two-family dwelling which is the residence of the mortgagor, but without foreclosure against ~~said~~ the security, shall not be subject to renewal by action thereon, and, after the lapse of two years from the

date of rendition, shall be without force and effect for any purpose whatsoever except as a setoff or *As used in this section, "mortgagor" means a mortgagor of a mortgage or a borrower executing a deed of trust as provided in chapter 654 or the vendee of a real estate contract.

Approved April 26, 1994

CHAPTER 1116

LIENS FOR UNPAID UNEMPLOYMENT COMPENSATION CONTRIBUTIONS

H.F. 618

AN ACT relating to liens against employers for unpaid unemployment compensation contributions.

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

Section 1. Section 96.14, subsection 3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Whenever any employer liable to pay contributions refuses or neglects to pay the same, the amount, including any interest, together with the costs that may accrue in addition thereto, shall be a lien in favor of the state upon all property and rights to property, whether real or personal, belonging to said employer. An assessment of the unpaid contributions, interest and penalty shall be applied as provided in section 96.7, subsection 4 3, paragraphs "a" and "b" and the lien shall attach as of the date the assessment is mailed or personally served upon the employer and shall continue for ten years, or until the liability for the amount is satisfied, unless sooner released or otherwise discharged. The lien may, within ten years from the date the lien attaches, be extended for up to an additional ten years by filing a notice during the ninth year with the appropriate county official of any county. However, the division of job service may release any lien, when after diligent investigation and effort it determines that the amount due is not collectible.

Approved April 26, 1994

*See Chapter 1199, § 67 herein

CHAPTER 1117

JURISDICTIONAL AMOUNT FOR SMALL CLAIMS
H.F. 2286

AN ACT increasing the jurisdictional amount for small claims.

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

Section 1. Section 631.1, Code 1993, is amended to read as follows:

631.1 SMALL CLAIMS.

1. The following actions or claims are small claims and shall be commenced, heard and determined as provided in this chapter:

A civil action for a money judgment where the amount in controversy is ~~two~~ three thousand dollars or less for actions commenced on or after July 1, 1994, and before July 1, 1995, and four thousand dollars or less for actions commenced on or after July 1, 1995, exclusive of interest and costs.

2. The district court sitting in small claims shall have concurrent jurisdiction of an action for forcible entry and detainer which is based on those grounds set forth in section 648.1, subsections 1, 2, 3 and 5. When commenced under this chapter, the action shall be a small claim for the purposes of this chapter.

3. The district court sitting in small claims has concurrent jurisdiction of an action of replevin if the value of the property claimed is ~~two~~ three thousand dollars or less for actions commenced on or after July 1, 1994, and before July 1, 1995, and four thousand dollars or less for actions commenced on or after July 1, 1995. When commenced under this chapter, the action is a small claim for the purposes of this chapter.

4. The district court sitting in small claims has concurrent jurisdiction of motions and orders relating to executions against personal property, including garnishments, where the value of the property or garnisheed money involved is ~~two~~ three thousand dollars or less for actions commenced on or after July 1, 1994, and before July 1, 1995, and four thousand dollars or less for actions commenced on or after July 1, 1995.

Sec. 2. JURISDICTIONAL AMOUNT REVERSION. The jurisdictional amount in section 1 of this Act shall revert to two thousand dollars if a court of competent jurisdiction declares the three or four thousand dollar amount unconstitutional.

Approved April 26, 1994

CHAPTER 1118

ASSISTANCE TO BEGINNING FARMERS
H.F. 2318

AN ACT relating to assistance provided to beginning farmers by the agricultural development authority, by providing that family farm limited corporations and family farm limited liability companies are eligible to receive assistance, and providing an effective date.

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

Section 1. Section 175.2, subsection 6, Code 1993, is amended to read as follows:

6. "Beginning farmer" means an individual, ~~or~~ partnership, family farm corporation, or family farm limited liability company, as defined in section 9H.1, with a low or moderate net worth that engages in farming or wishes to engage in farming.

Sec. 2. Section 175.2, subsection 12, Code 1993, is amended by adding the following new paragraphs:

NEW PARAGRAPH. c. For a family farm corporation, an aggregate net worth of all shareholders, including the value of each shareholder's share in the family farm corporation, and each shareholder's spouse and minor children of less than four hundred thousand dollars. However, the aggregate net worth of each shareholder and that shareholder's spouse and minor children shall not exceed two hundred thousand dollars.

NEW PARAGRAPH. d. For a family farm limited liability company, an aggregate net worth of all members, including each member's ownership interest in the family farm limited liability company, and each member's spouse and minor children of less than four hundred thousand dollars. However, the aggregate net worth of each member and that member's spouse and minor children shall not exceed two hundred thousand dollars.

Sec. 3. Section 175.2, subsection 16, Code 1993, is amended to read as follows:

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

Sec. 4. Section 175.12, subsection 3, paragraph a, Code 1993, is amended to read as follows:

a. The beginning farmer is a resident of the state. If the beginning farmer is a partnership, all partners shall be residents of the state. If a beginning farmer is a family farm corporation, all shareholders shall be residents of the state. If the beginning farmer is a family farm limited liability company, all members shall be residents of the state.

Sec. 5. Section 175.12, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. The beginning farmer has sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a partnership, all partners shall have sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a family farm corporation, all shareholders who are not minors shall have sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a family farm limited liability company, all members who are not minors shall have sufficient education, training, or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan.

Sec. 6. Section 175.12, subsection 3, paragraph f, Code 1993, is amended to read as follows:

f. The beginning farmer ~~will~~ shall materially and substantially participate in farming. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, each partner, shareholder, or member shall materially and substantially participate in farming.

Sec. 7. Section 175.12, subsection 3, paragraph g, Code 1993, is amended to read as follows:

g. If the beginning farmer is an individual, the agricultural land and agricultural improvements shall only be used for farming by the individual, the individual's spouse, or the individual's minor children, ~~or any of them~~. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, the agricultural land and agricultural improvements shall only be used for farming by ~~the~~ any or all of the partners, ~~each partner's spouse, each partner's~~ shareholders, or members, including their spouses and minor children, ~~or any of them~~.

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

Approved April 26, 1994

CHAPTER 1119

AGRICULTURAL DEVELOPMENT AND RURAL REVITALIZATION

H.F. 2337

AN ACT relating to agricultural development and rural revitalization, by providing for value-added agricultural products and processes, providing for programs and moneys, providing for repeal of provisions, and providing effective dates.

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

Section 1. FINDINGS AND POLICY.

1. The general assembly finds and declares the following:

a. The production and processing of agricultural commodities and products represents the foundation of this state's economy, and the economic viability of this nation is contingent upon the production of wealth generated primarily from materials, including food and fiber, produced on farms.

b. The future economic prosperity of this state depends upon new innovations that improve processes and products utilizing agricultural commodities and livestock.

c. Iowa's traditional investment in livestock production is an essential part of this state's continuing efforts to revitalize its rural economy, and to ensure general prosperity for all of the state's population.

d. It is increasingly necessary to support industries in this state which rely upon agricultural commodities to manufacture value-added products.

e. Renewable fuels and coproducts industries promise to utilize agricultural products in order to reduce the state's dependency upon petroleum products, reduce atmospheric contamination of this state's environment from the combustion of fossil fuels, and produce coproducts, such as corn gluten feed, distillers grain, and solubles, which can be used to increase livestock production in this state.

2. This state adopts a policy of enhancing agricultural production, including livestock production, through support of the renewable fuel industry. State agencies including the department of agriculture and land stewardship, the department of economic development, and the department of natural resources shall cooperate in order to ensure that this policy is carried out.

Sec. 2. Section 15.313, subsection 2, paragraph b, Code 1993, is amended by striking the paragraph.

Sec. 3. Section 15.313, subsection 3, Code 1993, is amended to read as follows:

3. The director shall submit annually at a regular or special meeting preceding the beginning of the fiscal year, for approval by the economic development board, the proposed allocation of funds from the strategic investment fund to be made for that fiscal year to the community economic betterment program, ~~the value-added agricultural products and processes financial assistance program,~~ the business development finance corporation, the self-employment loan program, and the targeted small business financial assistance program and for comprehensive management assistance. If funds are available under a federal microloan demonstration program, the director may recommend an allocation for that purpose. The plans may provide for increased or decreased allocations if the demand in a program indicates that the need exceeds the allocation for that program. The director shall report on a monthly basis to the board on the status of the funds and may present proposed revisions for approval by the board in January and April of each year. Unobligated and unencumbered moneys remaining in the strategic investment fund or any of its accounts on June 30 of each year shall be considered part of the fund for purposes of the next year's allocation.

Sec. 4. Section 15.318, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 16. The capacity of the proposed project to create products by adding value to agricultural commodities.

NEW SUBSECTION. 17. The degree to which the proposed project relies upon agricultural or value-added research conducted at a college or university, including a regents institution, community college, or a private university or college.

Sec. 5. Section 15E.111, Code 1993, is amended to read as follows:

15E.111 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE PROGRAM.

1. ~~Contingent on the availability of funding for this program, the~~ The department ~~may~~ shall establish a value-added agricultural products and processes financial assistance program. The department shall consult with the Iowa corn growers association and the Iowa soybean association. The purpose of the program is to ~~foster~~ encourage the increased utilization of agricultural commodities produced in this state. The program shall assist in efforts to revitalize rural regions of this state, by committing resources to provide financial assistance to new or existing value-added production facilities. In awarding financial assistance, the department shall commit resources to assist the following:

a. Facilities which are involved in the development of new innovative products~~, practices~~ and processes related to agriculture ~~through specialized financial or technical assistance to facilitate the acquisition of capital~~. The facility must do either of the following: produce a good derived from an agricultural commodity, if the good is not commonly produced from an agricultural commodity; or use a process to produce a good derived from an agricultural process, if the process is not commonly used to produce the good.

b. Renewable fuel production facilities. As used in this section, "renewable fuel" means an energy source which is derived from an organic compound capable of powering machinery, including an engine or power plant.

Financial assistance awarded under this section may be in the form of a loan, loan guarantee, grant, production incentive payment, or a combination of financial assistance. The department shall not award more than twenty-five percent of the amount allocated to the value-added agricultural products and processes financial assistance fund during any fiscal year to support a single person. The department may finance any size of facility. However, the department shall reserve up to fifty percent of the total amount allocated to the fund, for purposes of assisting persons requiring one hundred thousand dollars or less in financial assistance. The amount shall be reserved until the end of the third quarter of the fiscal year. The department shall not provide financial assistance to support a value-added production facility, if the facility or a person owning a controlling interest in the facility, has demonstrated a continuous and flagrant disregard for the health and safety of its employees, or the quality of the environment. Evidence of such disregard shall include a history of serious or uncorrected violations of state or federal law protecting occupational health and safety or the environment, including but not limited to serious or uncorrected violations of occupational safety and health standards enforced by the division of labor services of the department of employment services pursuant to chapter 84A, or rules enforced by the environmental protection division of the department of natural resources pursuant to chapter 455B.

2. A person is eligible to apply for assistance under this section, if the person satisfies the following requirements:

a. ~~The person is a resident of this state, or the person's principal place of business is~~ The existing or proposed facility is located in this state.

b. The person applies to the department of economic development in a manner and according to procedures required by the department.

c. The person submits a business plan which demonstrates managerial and technical expertise.

~~d. The person operates for profit or not-for-profit and under a single management, and either employs fewer than twenty employees or has an annual gross income of less than three million dollars computed as the average of the three preceding fiscal years.~~

3. The department of economic development ~~may~~ shall grant financial ~~or technical~~ assistance to a person determined by the department to be eligible to receive assistance under this

section, upon review and evaluation of the person's application by the agricultural products advisory council as established in section 15.203. The department shall consider the council's evaluation in granting or denying assistance. The department shall not approve an application for assistance under this section to refinance an existing loan ~~or to finance traditional agricultural operations. An application is eligible for consideration if the application seeks assistance for any of the following purposes:~~ The department shall not directly award financial assistance to support an activity directly related to farming as defined in section 9H.1, including the establishment or operation of a livestock production operation, regardless of whether the activity is related to a renewable fuel production facility.

4. The department shall select an applicant to receive financial assistance based on the following criteria:

a. The feasibility of the existing or proposed facility to remain a viable enterprise and the degree to which the facility will increase the utilization of agricultural commodities produced in this state.

b. The extent to which the existing or proposed facility is located in a rural region of the state.

c. The proportion of local match to be contributed to the project.

d. The level of need of the region where the existing facility is or the proposed facility is to be located.

e. The degree to which the facility produces a coproduct which is marketed in the same locality as the facility.

5. An application based on innovation shall be considered if any of the following apply:

a. The ~~development of value-added agricultural processes~~ production process is not commonly available in this state ~~which are to be carried out by the person in this state~~.

b. The ~~development of an innovative or diversified agricultural~~ product is not commonly produced in this state ~~which is to be carried out by the person in this state~~.

~~c. The development of an innovative processing, packaging, marketing, or management practice not commonly available in this state which is to be carried out by the person in this state.~~

~~4. Assistance by the department granted to an eligible person shall be subject to the following restrictions:~~

~~a. The person shall not receive financial assistance totaling more than eighty thousand dollars under this program.~~

~~b. Interest on a loan shall not exceed the current fair market interest rate. A loan shall not exceed fifty thousand dollars.~~

~~c. A loan guarantee shall not exceed eighty thousand dollars. A loan guarantee shall guarantee not more than eighty percent of a conventionally obtained loan.~~

~~d. A grant shall not exceed twenty-five thousand dollars. A grant shall be made only to provide leverage for a conventionally obtained loan. The conventionally obtained loan must be for an amount significantly larger than the amount of the grant.~~

~~5. Notwithstanding restrictions contained in subsection 4, the department may use up to five thousand dollars to contract for technical assistance in order to aid a person having a pending or approved application under this section.~~

6. a. The department shall consider an application to assist a renewable fuel production facility. An application based on ethanol fuel production shall be considered by the department if all of the following apply:

(1) All fermentation, distillation, and dehydration of the ethanol will occur at the proposed facility.

(2) The ethanol produced at the proposed facility will be at least one hundred ninety proof and must be denatured. However, if the facility markets the ethanol for further refining, the facility must demonstrate that the refiner will produce one hundred ninety proof ethanol from the ethanol purchased from the facility.

b. The department shall give priority to supporting proposed renewable fuel production facilities which directly support livestock production operations. The highest priority shall be provided to a renewable fuel production facility which produces coproducts which are used

to produce livestock raised in the same locality as the production facility. If the department has several proposals having the highest priority, a preference shall be given to a proposal in which the livestock operation:

(1) Is located in an agricultural area as provided in chapter 352.

(2) Is located in close proximity to and is an integral part of the renewable fuel production facility. However, the owner of the facility is not required to hold an interest in the land on which the livestock are produced. The livestock may be produced under the terms of a contract, in which a person regularly engaged in livestock production provides for the care and feeding of the livestock on behalf of the facility's owner.

c. The department shall cooperate with the office of renewable fuels and coproducts in order to carry out this subsection, as provided in section 159A.6B. The office shall be primarily responsible for providing technical expertise regarding the operation of a renewable fuel production facility, and specifically a facility which supports livestock production operations. The department shall cooperate with any contract consultant supported by the office as provided in section 159A.6B. The agricultural products advisory council as established in section 15.203, shall coordinate the activities of the department and the office. In administering this part of the program, the department and the office shall cooperate with the department of natural resources which shall assist an applicant in complying with all applicable environmental regulations. The department of natural resources shall acknowledge receipt of a completed application for a permit not later than two weeks following receipt of a completed application by the department. Within twelve weeks following receipt of the application, the department shall issue the permit or reply to the applicant describing reasons why the permit cannot be issued.

7. The university of Iowa, Iowa state university, and the university of northern Iowa shall cooperate in assisting facilities receiving financial assistance under this section. Iowa state university, including the Iowa cooperative extension service in agriculture and home economics, shall cooperate in assisting each renewable fuel production facility supporting livestock operations, including advising producers regarding nutrition and management practices. Community colleges and private universities and colleges are not precluded from providing this assistance.

8. The department of economic development and the office of renewable fuels and coproducts shall prepare a report each six months detailing the progress of the department and other agencies provided in this section. The office of renewable fuels and coproducts, the department of natural resources, and Iowa state university may contribute a summary of their activities. The report shall be delivered to the secretary of the senate and the chief clerk of the house; the legislative service bureau; the chairpersons and ranking members of the senate standing committee on agriculture; the senate standing committee on small business, economic development, and tourism; the house of representatives standing committee on agriculture; and the house of representatives standing committee on small business, economic development, and trade.

Sec. 6. Section 15E.112, Code 1993, is amended to read as follows:

15E.112 VALUE-ADDED AGRICULTURAL PRODUCTS AND PROCESSES FINANCIAL ASSISTANCE ~~ACCOUNT~~ FUND.

1. A value-added agricultural products and processes financial assistance ~~account~~ fund is ~~established within the strategic investment fund created in section 15.313~~ created within the state treasury under the control of the department. The ~~account~~ fund shall consist of any money appropriated by the general assembly ~~for that purpose, moneys allocated to the account from the strategic investment fund,~~ and any other moneys available to and obtained or accepted by the department from the federal government or private sources for placement in the ~~account~~ fund. Until July 1, 2000, moneys shall be deposited in the fund as provided in section 423.24. Not more than one percent of the total moneys available to support value-added agricultural products and processes pursuant to section 423.24 during each quarter shall be used by the department for administration of the value-added agricultural products and processes financial assistance program, as provided in section 15E.111. ~~Except as otherwise provided in subsection 2, the~~ The assets of the ~~account~~ fund shall be used by the department only for carrying out the purposes of section 15E.111.

2. ~~The~~ In administering the fund and the value-added agricultural products and processes financial assistance program, the department may ~~use moneys in the account to~~ do any of the following:

a. Contract, sue and be sued, and adopt administrative rules necessary to carry out the provisions of this section and section 15E.111~~, but~~. However, the department shall not in any manner directly or indirectly pledge the credit of the state.

b. Authorize payment from the ~~account~~ fund for costs, commissions, attorney fees, and other reasonable expenses, including expenses related to ~~and~~ carrying out duties necessary for insuring or guaranteeing loans under section 15E.111, and for the recovery of loan moneys insured or guaranteed or the management of property acquired in connection with such loans.

3. Payments of interest, recaptures of awards, or repayments of moneys loaned under the value-added agricultural products and processes financial assistance program shall be deposited ~~into the strategic investment~~ into the fund. Section 8.33 does not apply to any moneys in the fund. Unencumbered or unobligated moneys in the fund derived from moneys deposited pursuant to section 423.24, which are in excess of three million six hundred fifty thousand dollars of unencumbered or unobligated moneys in the fund deposited pursuant to that section, which are remaining on June 30 of each fiscal year, shall be credited on August 31 to the road use tax fund as created in section 312.1.

4. The fund is subject to an annual audit by the auditor of state. Moneys in the fund, which may be subject to warrants written by the director of revenue and finance, shall be drawn upon the written requisition of the director of the department of economic development or an authorized representative of the director.

Sec. 7. Section 18.115, subsection 5, Code Supplement 1993, is amended to read as follows:

5. Of all new passenger vehicles and light pickup trucks purchased by the state vehicle dispatcher, ~~institutions under the control of the state board of regents, community colleges, and any other state agency purchasing such new vehicles and trucks, beginning July 1, 1992, a minimum of five percent, and beginning July 1, 1994,~~ a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion including but not limited to ~~those propelled by flexible fuels, compressed~~ any of the following:

a. A flexible fuel, which is any of the following:

(1) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.

(2) A fuel which is a mixture of diesel fuel and processed soybean oil. At least twenty percent of the mixed fuel by volume must be processed soybean oil.

(3) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.2.

b. Compressed or liquified natural gas~~, propane, solar~~.

c. Propane gas.

d. Solar energy~~, or electricity~~.

e. Electricity. ~~For the purpose of this subsection, "flexible fuels" means fuels which are blended with eighty-five percent ethanol and fifteen percent gasoline.~~

PARAGRAPH DIVIDED. The provisions of this subsection do not apply to ~~such~~ vehicles and trucks purchased and directly used for ~~the following purposes:~~ law enforcement~~,~~ or off-road maintenance work~~, or work vehicles used to pull loaded trailers. This subsection also does not apply to school corporations, with the exceptions of those designated above.~~

PARAGRAPH DIVIDED. It is the intent of the general assembly that the members of the midwest energy compact promote the development and purchase of motor vehicles equipped with engines which utilize alternative methods of propulsion.

Sec. 8. Section 19A.3, subsection 22, Code 1993, is amended to read as follows:

22. The appointee serving as the coordinator of the office of renewable ~~fuel~~ fuels and coproducts, as provided in section 159A.3.

Sec. 9. Section 20.4, subsection 13, Code 1993, is amended to read as follows:

13. The appointee serving as the coordinator of the office of renewable ~~fuel~~ fuels and coproducts, as provided in section 159A.3.

Sec. 10. Section 159.20, subsection 10, Code 1993, is amended to read as follows:

10. Assist the office of ~~fuel~~ fuels and coproducts and the renewable ~~fuel~~ fuels and coproducts advisory committee in administering the provisions of chapter 159A.

Sec. 11. Section 159A.1, subsections 2 and 3, Code 1993, are amended to read as follows:

2. It is necessary to support industries using agricultural commodities to ~~produce~~ increase the demand for and production and consumption of sources of energy in order to reduce the state's dependency upon petroleum products, ~~and to ameliorate threats to this~~; to reduce atmospheric contamination of this state's environment ~~resulting from the atmospheric contamination of carbon monoxide~~ from the combustion of fossil fuels; and to produce coproducts, such as corn gluten feed, distillers grain, and solubles, which can be used to increase livestock production in this state.

3. This state adopts a policy of enhancing agricultural production ~~through support of the renewable fuel industry~~ by encouraging the development and use of fuels and coproducts derived from agricultural commodities, as provided in this chapter, including rules adopted by the office of renewable ~~fuel~~ fuels and coproducts and the renewable ~~fuel~~ fuels and coproducts advisory committee.

Sec. 12. Section 159A.2, Code 1993, is amended to read as follows:

159A.2 DEFINITIONS.

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

1. "Committee" means the renewable ~~fuel~~ fuels and coproducts advisory committee established pursuant to section 159A.4.

2. "Coordinator" means the administrative head of the office of renewable ~~fuel~~ fuels and coproducts appointed by the department as provided in section 159A.3.

2A. "Coproduct" means a product other than a renewable fuel which at least in part is derived from the processing of agricultural commodities, and which may include corn gluten feed, distillers grain, or solubles, or can be used as livestock feed or a feed supplement.

3. "Fund" means the renewable ~~fuel~~ fuels and coproducts fund established pursuant to section 159A.7.

4. "Office" means the office of renewable ~~fuel~~ fuels and coproducts created pursuant to section 159A.3.

5. "Renewable fuel" means an energy source at least in part derived from an organic compound~~, including a photosynthate, which may be used to power~~ capable of powering machinery, including an engine or power plant. A renewable fuel includes but is not limited to ethanol-blended or soydiesel fuel.

6. "Renewable ~~fuel~~ fuels and coproducts activities" means either of the following:

a. The research, development, production, promotion, marketing, or consumption of ~~a~~ renewable ~~fuel~~ fuels and coproducts.

b. The research, development, transfer, or use of technologies which directly or indirectly increase the supply or demand of ~~a~~ renewable ~~fuel~~ fuels and coproducts.

7. "Soydiesel fuel" means a fuel which is a mixture of diesel fuel and processed soybean oil, if at least twenty percent of the mixed fuel by volume is processed soybean oil.

Sec. 13. Section 159A.3, Code 1993, is amended to read as follows:

159A.3 OFFICE OF RENEWABLE ~~FUEL~~ FUELS AND COPRODUCTS.

1. An office of renewable ~~fuel~~ fuels and coproducts is created within the department and shall be staffed by a coordinator who shall be appointed by the secretary. It shall be the policy of the office to further renewable ~~fuel~~ fuels and coproducts activities. The office shall first further renewable ~~fuel~~ fuels and coproducts activities based on the following considerations:

a. The price competitiveness of the renewable fuel or coproduct.

b. The production capacity and supply of the renewable fuel or coproduct.

c. The ease and safety of transporting and storing the renewable fuel or coproduct.

d. The degree to which the renewable fuel or coproduct is currently developed for ready transfer to current engine technology.

e. The degree to which the renewable fuel or coproduct is environmentally protective.

f. The degree to which the renewable fuel or coproduct provides economic development opportunities.

2. The duties of the office include, but are not limited to, the following:

a. Serving as advisor to the department regarding regulations, including federal and state standards, relating to oxygenate octane enhancers, as defined in section 214A.1.

b. Serving as advisor to the department regarding renewable ~~fuel~~ fuels and coproducts programs.

c. Serving as monitor of regulations administered in the state, in other states, or by the federal government. The office shall collect information and data prepared by state agencies related to these regulations, and provide referral and assistance to interested persons and agencies.

d. Cooperating with persons and agencies involved in renewable ~~fuel~~ fuels and coproducts activities, including other states and the federal government, to standardize regulations and coordinate programs, in order to increase administrative effectiveness and reduce administrative duplication.

e. Implementing policies and procedures designed to facilitate communication between persons involved in renewable ~~fuel~~ fuels and coproducts activities.

f. Assisting state or federal agencies, or assisting commercial enterprises or commodity organizations which are located in or desiring to locate in the state. The assistance may include support of public research relating to renewable ~~fuel~~ fuels and coproducts activities.

g. Conducting studies relating to the viability of producing or using ~~a~~ renewable ~~fuel~~ fuels and coproducts, and methods and schedules required to ensure a practicable transition to the use of ~~a~~ renewable ~~fuel~~ fuels and coproducts.

h. Preparing an annual report to the secretary regarding renewable ~~fuel~~ fuels and coproducts activities. The report shall include a review of research and research results, areas of study with promising potential, a summary of initiatives in other states, and an analysis of state and federal regulations and programs.

~~i. Promoting the use of by-products resulting from the production of renewable fuel.~~

j i. Cooperating with the committee in carrying out the purposes of the committee as provided in section 159A.5. The office shall regularly inform the committee regarding its operations and programs administered under this chapter, including financial reports concerning the fund.

j. Approve a renewable fuel which may be used as a flexible fuel powering a motor vehicle required to be purchased by state agencies.

3. a. A chief purpose of the office is to further the production and consumption of ethanol fuel in this state. The office shall be the primary state agency charged with the responsibility to promote public consumption of ethanol fuel.

b. The office shall promote the production and consumption of soydiesel fuel in this state.

4. The office shall cooperate with the Wallace technology transfer foundation of Iowa in formulating long-range strategic plans to guide state investment in applied research, development, and commercial transfer of selected scientific and technological innovation relating to renewable ~~fuel~~ fuels and coproducts technology.

5. The office and state entities, including the department, the committee, the Iowa department of economic development, the state department of transportation, the department of natural resources, state board of regents' institutions, and the Wallace technology transfer foundation of Iowa, shall cooperate to implement this section.

Sec. 14. Section 159A.4, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A renewable ~~fuel~~ fuels and coproducts advisory committee is established within the department. The committee shall be composed of the following persons:

Sec. 15. Section 159A.4, subsection 1, Code 1993, is amended by adding the following new paragraph after paragraph h and relettering the subsequent paragraphs:

NEW PARAGRAPH. i. A person representing the Iowa soybean association.

Sec. 16. Section 159A.4, subsection 1, paragraph j, Code 1993, is amended to read as follows:

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

Sec. 17. Section 159A.4, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The governor shall appoint persons who shall be confirmed by the senate, pursuant to section 2.32, to serve as voting members of the committee. However, the secretary of agriculture shall appoint the person representing the department of agriculture and land stewardship, the director of the Iowa department of economic development shall appoint the person representing that department, the director of the state department of transportation shall appoint the person representing that department, and the director of the department of natural resources shall appoint the person representing that department. The governor may make appointments of persons representing organizations listed under paragraphs "g" ~~and "h"~~ through "i" from a list of candidates which shall be provided by the organization upon request by the governor.

Sec. 18. Section 159A.5, subsections 1, 2, 4, 5, Code Supplement 1993, are amended to read as follows:

1. The purpose of the committee is to provide general oversight of operations of the office and to advise the office about all aspects concerning the production and consumption of renewable ~~fuel~~ fuels and coproducts. However, the committee shall not control policy decisions or direct the administration of this chapter.

2. The committee shall monitor conditions, practices, policies, programs, and procedures affecting the production and consumption of renewable ~~fuel~~ fuels and coproducts.

4. The committee shall review the annual report to the secretary regarding renewable ~~fuel~~ fuels and coproducts activities, as provided in section 159A.3. The committee may make written comments concerning the contents of the report. Upon request of the committee, the coordinator shall include the comments as part of the report.

5. The committee, in cooperation with the coordinator, shall do all of the following:

a. Review the operations of the office and shall make recommendations regarding the effectiveness of programs provided under this chapter.

b. Establish performance goals for the office and adopt recommendations relating to improving the functions of the office and furthering the purposes of this chapter.

c. Encourage full support of programs designed to inform the public or targeted groups regarding renewable ~~fuel~~ fuels and coproducts production and consumption.

d. Support promotional programs or marketing strategies designed to encourage public consumption of renewable ~~fuel~~ fuels and coproducts.

~~e. Review the distribution of ethanol production incentive payments to qualified persons, pursuant to section 159A.8.~~

Sec. 19. Section 159A.6, Code 1993, is amended to read as follows:

159A.6 ~~POINT-OF-SALE PUBLIC PROMOTION PROGRAM~~ EDUCATION, PROMOTION, AND ADVERTISING.

1. The office shall support education regarding, and promotion and advertising of, renewable fuels and coproducts. The office shall consult with the Iowa corn growers association and the Iowa soybean association.

2. The office shall ~~establish a program to~~ promote the advantages related to the use of renewable ~~fuel~~ fuels as an alternative to nonrenewable ~~fuel~~ fuels. Promotions shall be designed to inform the ultimate consumer of advantages associated with using renewable ~~fuel~~ fuels, and emphasize the benefits to the natural environment. The promotion shall inform consumers at the businesses of retail dealers of ~~the~~ motor vehicle ~~fuel~~ fuels.

The committee shall develop standards for decals required pursuant to section 214A.16, which shall be designed to promote the advantages of using renewable ~~fuel~~ fuels. The standards may be incorporated within a model decal adopted by the committee and approved by the office.

3. The office shall promote the advantages related to the use of coproducts derived from the production of renewable fuels, including the use of coproducts used as livestock feed or meal. Promotions shall be designed to inform the potential purchasers of the advantages associated with using coproducts. The office shall promote advantages associated with using coproducts of ethanol production as livestock feed or meal to cattle producers in this state.

4. The office may contract to provide all or part of these services.

Sec. 20. NEW SECTION. 159A.6A RENEWABLE FUELS AND COPRODUCTS RESEARCH.

The office shall support research relating to renewable fuels and coproducts, including methods to increase efficiency and reduce costs associated with production. The office shall consult with the Iowa corn growers association and the Iowa soybean association. The office shall support research activities at the university of Iowa, Iowa state university of science and technology, and the university of northern Iowa. The office may contract to provide all or part of these services.

Sec. 21. NEW SECTION. 159A.6B TECHNICAL ASSISTANCE.

The office shall assist persons in revitalizing rural regions of this state, by providing technical assistance to new or existing renewable fuel production facilities, including the establishment and operation of facilities, and specifically facilities which create coproducts, including coproducts which support livestock production operations. The office shall consult with the Iowa corn growers association and the Iowa soybean association. The office shall provide planning assistance which may include evaluations of methods to most profitably manage these operations. The business planning assistance shall provide for adequate environmental protection of this state's natural resources from the operation of the facility.

The office may execute contracts in order to provide technical support and outreach services for purposes of assisting and educating interested persons as provided in this section. The office may also contract with a consultant to provide part or all of these services. The office may require that a person receiving assistance pursuant to this section contribute up to fifty percent of the amount required to support the costs of contracting with the consultant to provide assistance to the person. The office shall assist the person in completing any technical information required in order to receive assistance by the department of economic development pursuant to the value-added agricultural products and processes financial assistance program created pursuant to section 15E.111. The office shall cooperate with the department of economic development, the department of natural resources, and regent institutions or other universities and colleges as provided in section 15E.111, in order to carry out this section.

Sec. 22. Section 159A.7, Code Supplement 1993, is amended to read as follows:

159A.7 RENEWABLE ~~FUEL~~ FUELS AND COPRODUCTS FUND.

1. A renewable ~~fuel~~ fuels and coproducts fund is created in the state treasury under the control of the office of renewable ~~fuel~~ fuels and coproducts. The fund is composed of moneys accepted by the office. ~~Moneys in the fund shall be deposited into the renewable fuel activities account or the ethanol production incentive account.~~ The fund may include moneys appropriated by the general assembly, and other moneys available to and obtained or accepted by the office, including moneys from the United States, other states in the union, foreign nations, state agencies, political subdivisions, and private sources.

Moneys in the fund shall be used only to ~~administer this chapter~~ carry out the provisions of this section and sections 159A.3, 159A.4, 159A.5, 159A.6, 159A.6A, and 159A.6B within the state of Iowa.

2. Moneys in the ~~renewable fuel activities account~~ fund shall be allocated ~~at the beginning of~~ during each fiscal year as follows:

a. ~~Up to~~ At least forty percent ~~may~~ shall be dedicated to support education, promotion, and advertising of ~~ethanol fuel~~ renewable fuels and coproducts as provided in section 159A.6.

b. Up to thirty percent may be dedicated to support research at the university of Iowa~~.~~, ~~c. Up to thirty percent may be dedicated to support research at~~ Iowa state university of science and technology, and the university of northern Iowa, as provided in section 159A.6A.

~~d~~ c. ~~The~~ Any remaining balance shall be used by the office to support technical assistance as provided in section 159A.6B and any other projects or programs developed by the office.

3. ~~Moneys~~ Until July 1, 2000, moneys shall be deposited in the ~~ethanol production incentive account~~ fund as provided in section 423.24. ~~One~~ Not more than one and one-half percent of the total moneys ~~deposited in the account during each quarter~~ available to support value-added agricultural products and processes pursuant to section 423.24 shall be allocated to the department for administration of the office. ~~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.~~

4. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants by the director of revenue and finance, drawn upon the written requisition of the coordinator.

5. In administering the fund, the office may do all of the following:

a. Contract, sue and be sued, and adopt procedures necessary to administer this section. However, the office shall not in any manner, directly or indirectly, pledge the credit of the state.

b. Authorize payment from the ~~accounts, from income received by investment of moneys in the fund,~~ fund for ~~administrative costs,~~ commissions, attorney and accountant fees, and other reasonable expenses related to and necessary for administering the ~~accounts~~ fund.

6. Section 8.33 does not apply to moneys in the ~~renewable fuel activities account~~ fund. Income received by investment of moneys in the ~~account~~ fund shall remain in ~~that account~~ the fund. ~~Moneys appropriated for a state fiscal year to the ethanol production incentive account which remain unobligated and unencumbered on July 31 of the following state fiscal year shall be credited to the road use tax fund as provided in section 423.24.~~ Unencumbered or unobligated moneys in the fund derived from moneys deposited pursuant to section 423.24, which are in excess of three hundred fifty thousand dollars of unencumbered or unobligated moneys in the fund deposited pursuant to that section, and which are remaining on June 30 of each fiscal year, shall be credited on August 31 to the road use tax fund as created in section 312.1.

Sec. 23. Section 214A.16, Code 1993, is amended to read as follows:

214A.16 NOTICE OF BLENDED FUEL — DECAL.

All motor vehicle fuel kept, offered, or exposed for sale, or sold at retail containing over one percent ethanol, methanol, or any combination of oxygenate octane enhancers shall be identified as "with" either "ethanol", "methanol", "ethanol/methanol", or similar wording on a decal. All diesel fuel kept, offered, or exposed for sale, or sold at retail containing over one percent soybean oil by volume shall be identified as "with soydiesel" or similar wording on a decal. The design and location of the decals ~~may~~ shall be prescribed by rules adopted by the department. The department shall adopt the rules to be effective by January 1, 1995. A decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6. ~~If~~ Until the department ~~does not establish~~ establishes standards for ~~a decal relating to a specific oxygenate octane enhancer~~ decals, the wording shall be on a white adhesive decal with black letters at least one-half inch high and at least one-quarter inch wide placed between thirty and forty inches above the driveway level on the front sides of any container or pump from which the motor fuel is sold. The department may approve an application to place a decal in a special location on a pump or container or use a decal with special lettering or colors, if the decal appears clear and conspicuous to the consumer. The application shall be made in writing pursuant to procedures adopted by the department. Designs for a decal identifying a renewable fuel shall be consistent with standards adopted pursuant to section 159A.6.

Sec. 24. Section 216B.3, subsection 16, Code Supplement 1993, is amended to read as follows:

16. a. 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.

b. Of all new passenger vehicles and light pickup trucks purchased by the commission, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

(1) A flexible fuel which is either of the following:

(a) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.

(b) A fuel which is a mixture of diesel fuel and processed soybean oil. At least twenty percent of the mixed fuel by volume must be processed soybean oil.

(c) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

(2) Compressed or liquified natural gas.

(3) Propane gas.

(4) Solar energy.

(5) Electricity.

The provisions of this paragraph "b" do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

Sec. 25. Section 260C.19A, Code Supplement 1993, is amended to read as follows:

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

1. 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.

2. Of all new passenger vehicles and light pickup trucks purchased by or under the direction of the board of directors to provide services to a merged area, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

a. A flexible fuel which is either of the following:

(1) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.

(2) A fuel which is a mixture of diesel fuel and processed soybean oil. At least twenty percent of the mixed fuel by volume must be processed soybean oil.

(3) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

b. Compressed or liquified natural gas.

c. Propane gas.

d. Solar energy.

e. Electricity.

The provisions of this subsection do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

Sec. 26. Section 262.25A, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Of all new passenger vehicles and light pickup trucks purchased by or under the direction of the state board of regents to provide services to a merged area, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

a. A flexible fuel which is either of the following:

(1) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.

(2) A fuel which is a mixture of processed soybean oil and diesel fuel. At least twenty percent of the fuel by volume must be processed soybean oil.

(3) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

b. Compressed or liquified natural gas.

c. Propane gas.

d. Solar energy.

e. Electricity.

The provisions of this subsection do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

Sec. 27. NEW SECTION. 266.19 RENEWABLE FUEL — ASSISTANCE.

The university shall cooperate in assisting renewable fuel production facilities supporting livestock operations managed by persons receiving assistance pursuant to the value-added agricultural products and processes financial assistance program established in section 15E.111.

Sec. 28. Section 307.21, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. Of all new passenger vehicles and light pickup trucks purchased by the administrator, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

a. A flexible fuel which is either of the following:

(1) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.

(2) A fuel which is a mixture of processed soybean oil and diesel fuel. At least twenty percent of the fuel by volume must be processed soybean oil.

(3) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

b. Compressed or liquified natural gas.

c. Propane gas.

d. Solar energy.

e. Electricity.

The provisions of this subsection do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

Sec. 29. Section 423.24, subsection 1, paragraph b, Code Supplement 1993, is amended to read as follows:

b. Beginning on July 1, 1993, three and one-half percent of the revenue, not to exceed one million dollars per quarter, derived from the use tax on motor vehicles, trailers, and motor vehicle accessories and equipment as collected pursuant to section 423.7, shall be ~~deposited in the ethanol production incentive account of the renewable fuel fund created in section 159A.7.~~ used to support value-added agricultural products and processes as follows:

(1) Ninety-one and one-quarter percent of these moneys shall be deposited in the value-added agricultural products and processes financial assistance fund as created in section 15E.112.

(2) eight and three-quarters percent of these moneys shall be deposited in the renewable fuels and coproducts fund as created in section 159A.7.

PARAGRAPH DIVIDED. Moneys deposited according to this paragraph "b" are a continuing appropriation for expenditure under ~~section 159A.8~~ sections 15E.112 and 159A.7. ~~Moneys deposited during a state fiscal year to the ethanol production incentive account which remain unobligated and unencumbered on July 31 of the following state fiscal year shall be credited to the road use tax fund as provided in this section.~~

Sec. 30. Section 455B.104, Code Supplement 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall assist persons applying for assistance to establish and operate renewable fuel production facilities pursuant to the value-added agricultural products and processes financial assistance program established in section 15E.111.

Sec. 31. NEW SECTION. 904.312A MOTOR VEHICLES.

1. A motor vehicle purchased by the department 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.

2. Of all new passenger vehicles and light pickup trucks purchased by the department, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

a. A flexible fuel which is either of the following:

(1) A fuel blended with not more than fifteen percent gasoline and at least eighty-five percent ethanol.

(2) A fuel which is a mixture of diesel fuel and processed soybean oil. At least twenty percent of the mixed fuel by volume must be processed soybean oil.

(3) A renewable fuel approved by the office of renewable fuels and coproducts pursuant to section 159A.3.

b. Compressed or liquified natural gas.

c. Propane gas.

d. Solar energy.

e. Electricity.

The provisions of this subsection do not apply to vehicles and trucks purchased and directly used for law enforcement or off-road maintenance work.

Sec. 32. SOYDIESEL DEMONSTRATION PROJECTS.

1. The state department of transportation shall conduct a demonstration project using diesel trucks owned by the department. Each truck shall operate using soydiesel fuel for at least twenty thousand miles. However, trucks primarily used for snow removal shall operate for at least twelve thousand miles. The projects shall be under the oversight of the renewable fuels and coproducts advisory committee. The state department of transportation shall evaluate the performance of vehicles operating on soydiesel fuel, including the rate of repairs on the vehicles and comments of persons operating and maintaining the vehicles. The department shall submit its findings and recommendations to the renewable fuels and coproducts advisory committee as part of the reports provided in subsection 2.

2. Notwithstanding section 423.24, as amended in this Act, for the period beginning on July 1, 1993, and ending July 1, 1994, an amount equal to two and one-half percent of the total moneys used to support value-added agricultural products and processes as provided in that section, which would otherwise be allocated to the value-added agricultural products and processes financial assistance fund, shall instead be allocated to the office of renewable fuels and coproducts. The moneys shall be used for purposes of conducting soydiesel demonstration projects administered by the state department of transportation under the oversight of the renewable fuels and coproducts advisory committee.

a. The office of renewable fuels and coproducts shall allocate the moneys to the state department of transportation. The department shall apply the moneys to support one or more special projects operations assistance grants which demonstrate the use of soydiesel fuel in one or more public transit systems.

b. The state department of transportation shall evaluate the performance of vehicles operating on soydiesel fuel, including the rate of repairs on the vehicles and comments of persons operating and maintaining the vehicles. The department shall submit initial findings and recommendations to the renewable fuels and coproducts advisory committee which shall submit a report to the senate and chief clerk of the house, the legislative service bureau, the chairpersons and ranking members of the senate standing committee on agriculture, the senate standing committee on small business, economic development and tourism, the house of representatives standing committee on agriculture, and the house of representatives standing committee on small business, economic development and trade. The department shall submit final findings and recommendations to the renewable fuels and coproducts advisory committee which shall submit a report to the general assembly. The initial report shall be due on October 1, 1994. The final report shall be due on March 1, 1995.

c. Moneys described pursuant to this subsection are allocated contingent upon a contribution made by either a private or public source to support soydiesel fuel demonstration projects in Iowa commencing during the fiscal year beginning July 1, 1993, and ending June 30, 1994.

d. Moneys available under this section which remain unexpended or unobligated on June 30, 1994, shall remain available to support the demonstration project and shall not revert pursuant to section 8.33. Moneys remaining unexpended or unobligated on June 30, 1995, shall be credited to the value-added agricultural products and processes financial assistance fund as created in section 15E.112.

Sec. 33. ETHANOL PRODUCTION AND LIVESTOCK FEEDING EDUCATION PROJECT.

1. For the period beginning July 1, 1993, and ending June 30, 1994, the office of renewable fuels and coproducts shall allocate from the renewable fuels and coproducts fund, not more than an amount equal to one and one-half percent of the total moneys used to support value-added agricultural products and processes as provided in section 423.24 to Iowa state university for purposes of sponsoring at least four seminars in different regions throughout the state, and a conference in a central location of the state. Iowa state university shall consult with the Iowa corn growers association and the Iowa soybean association. The seminars and the conference shall provide information relating to establishing and managing ethanol production facilities, the use of ethanol production coproducts to feed livestock, and the relationship between ethanol production and livestock feeding operations. The university shall, to every extent possible, invite nationally recognized experts to provide information regarding ethanol production processes, livestock nutrition, capitalization of production facilities, operational requirements, and marketing opportunities.

2. The department of economic development and relevant organizations representing agricultural producers as designated by the department shall cooperate with the university, and shall provide information and a representative to appear at each seminar and the conference. The department shall provide information regarding financial and technical assistance available from the department.

3. The university shall submit a report not later than December 1 to the secretary of the senate and the chief clerk of the house, describing the seminars and conference, including attendance numbers, and an analysis regarding the results of the project in attracting persons to begin ethanol production and livestock feeding operations.

4. Moneys available under this section which remain unexpended or unobligated on June 30, 1994, shall remain available to support the education project and shall not revert pursuant to section 8.33. Moneys remaining unexpended or unobligated on June 30, 1995, shall be credited to the renewable fuels and coproducts fund created in section 159A.7.

Sec. 34. MICROBUSINESS RURAL ENTERPRISE DEMONSTRATION PROJECT.

1. As used in this section:

a. "Department" means the department of economic development.

b. "Microbusiness or microbusiness enterprise" means a business producing services with five or fewer full-time equivalent employee positions, and with asset requirements of up to twenty-five thousand dollars.

c. "Microbusiness organization" means a nonprofit corporation organized under chapter 504A which is exempt from taxation pursuant to section 501(c) of the Internal Revenue Code, and which has a principal mission of actively engaging in microbusiness development, training, technical assistance, and access to capital for the start-up or expansion of microbusinesses.

2. For the period beginning July 1, 1993, and ending June 30, 1994, the department may allocate from the value-added agricultural products and processes financial assistance fund an amount equal to one and one-quarter percent of the total moneys used to support value-added agriculture products and processes as provided in section 423.24 to be used for the purpose of conducting a microbusiness rural enterprise demonstration project.

3. The department shall contract with a microenterprise organization actively engaged in microbusiness enterprise in order to assist the establishment of this demonstration project. In order to qualify as the demonstration project, the microenterprise organization must:

a. Demonstrate a past performance and a capacity to successfully engage in microbusiness development.

b. Have a statewide commitment and focus to microbusiness development.

c. Provide training and technical assistance.

d. Demonstrate an ability to provide access to capital for start-up or expansion of a microbusiness.

e. Have established linkages with financial institutions.

f. Demonstrate an ability to provide follow-up technical assistance after a microbusiness start-up or expansion.

4. Moneys appropriated pursuant to this section which remain unexpended or unobligated on June 30, 1994, shall be available to support the demonstration project and shall not revert pursuant to section 8.33. Moneys remaining unexpended or unobligated on June 30, 1995, shall be available to support the demonstration project and shall not revert pursuant to section 8.33, but may be credited to the value-added agricultural products and processes financial assistance fund as created in section 15E.112.

5. The department shall submit a report to the secretary of the senate and the chief clerk of the house not later than November 1, 1994. The report shall detail the activities of the microenterprise organization, and describe the success of the project.

Sec. 35. PRIOR ALLOCATED MONEYS. In order to carry out the provisions of this Act, any moneys deposited in the ethanol production incentive account of the renewable fuel fund as provided in section 423.24 prior to the effective date of this Act, shall be credited to the renewable fuels and coproducts fund as if the moneys had been allocated to the fund pursuant to section 423.24 as provided by this Act. Moneys which remain in the renewable fuels and coproducts fund which exceed the amount required to be deposited in the fund pursuant to this Act shall be credited to the value-added agricultural products and processes financial assistance fund as created in section 15E.112 as if the moneys had been allocated to that fund pursuant to section 423.24 as provided by this Act.

Sec. 36. ELIMINATION OF FUNDING SOURCE – DIRECTIONS TO CODE EDITOR.

1. Section 423.24, subsection 1, paragraph b, Code Supplement 1993, is amended by striking the paragraph.

2. No moneys shall be deposited into the value-added agricultural products and processes financial assistance fund or the renewable fuels and coproducts fund, pursuant to section 423.24, as provided in this Act, after June 30, 2000.

3. Notwithstanding this section, restrictions upon the amount of money used to support administrative expenses by the department of economic development and the office of renewable fuels and coproducts shall continue to apply to moneys deposited in the value-added agricultural products and processes financial assistance fund and the renewable fuels and coproducts fund, pursuant to section 423.24, as provided in this Act, after June 30, 2000.

4. a. Any unencumbered or unobligated moneys in the value-added agricultural products and processes financial assistance fund derived from moneys deposited pursuant to section 423.24, which are in excess of three million six hundred fifty thousand dollars of the unencumbered or unobligated moneys in the fund deposited pursuant to that section, and which are remaining on June 30, 2000, shall be credited on August 31, 2000, to the road use tax fund as created in section 312.1.

b. Any unencumbered or unobligated moneys in the renewable fuels and coproducts fund derived from moneys deposited pursuant to section 423.24, which are in excess of three hundred fifty thousand dollars of the unencumbered or unobligated moneys in the fund deposited pursuant to that section, and which are remaining on June 30, 2000, shall be credited on August 31, 2000, to the road use tax fund as created in section 312.1.

5. The Code editor is directed to eliminate provisions within sections of the Code as provided in this Act wherever references to section 423.24, subsection 1, paragraph "b", appear in those provisions.

6. This section takes effect on July 1, 2000.

Sec. 37. REPEALS.

1. 1992 Iowa Acts, chapter 1099, section 11, is repealed.

2. Section 159A.8, Code 1993, is repealed.

Sec. 38. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved April 26, 1994

CHAPTER 1120

MEDICAL ASSISTANCE — TRUSTS AND OTHER MATTERS

H.F. 2372

AN ACT relating to medical assistance including medical assistance trusts, transfers of assets related to medical assistance and special education services provided through medical assistance fundings, and psychiatric medical institution for children services funded under medical assistance and providing an effective date and for retroactive applicability.

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

DIVISION I

Medical Assistance — Trusts

Section 1. Section 249A.3, Code Supplement 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 12. In determining the eligibility of an individual for medical assistance, the department shall consider income or assets relating to trusts or similar legal instruments or devices established on or before August 10, 1993, as available to the individual, in accordance with the Comprehensive Omnibus Budget Reconciliation Act of 1986, Pub.L. No. 99-272, section 9506(a), as amended by the Omnibus Budget Reconciliation Act of 1986, Pub. L. No. 99-509, section 9435(c).

NEW SUBSECTION. 13. In determining the eligibility of an individual for medical assistance, the department shall consider income or assets relating to trusts or similar legal instruments or devices established after August 10, 1993, as available to the individual, in accordance with 42 U.S.C. section 1396p(d) and sections 633.708 and 633.709.

Sec. 2. Section 249A.12, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If a county reimburses the department for medical assistance provided under this section and the amount of medical assistance is subsequently repaid through a medical assistance income trust or a medical assistance special needs trust as defined in section 633.707, the department shall reimburse the county on a proportionate basis.

Sec. 3. NEW SECTION. 633.707 DEFINITIONS.

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

1. "Available monthly income" means in reference to a medical assistance income trust beneficiary, any income received directly by the beneficiary, not from the trust, that counts as income in determining eligibility for medical assistance and any amounts paid to or otherwise made available to the beneficiary by the trustee pursuant to section 633.709, subsection 1, paragraph "b", or section 633.709, subsection 2, paragraph "b".

2. "Beneficiary" means the original beneficiary of a medical assistance special needs trust or medical assistance income trust, whose assets funded the trust.

3. "Institutionalized individual" means an individual receiving nursing facility services, a level of care in any institution equivalent to nursing facility services, or home and community-based services under the medical assistance home and community-based waiver program.

4. "Maximum monthly medical assistance payment rate for services in an intermediate care facility for the mentally retarded" means the allowable rate established by the department of human services and as published in the Iowa administrative bulletin.

5. "Medical assistance" means medical assistance as defined in section 249A.2.

6. "Medical assistance income trust" means a trust or similar legal instrument or device that meets the criteria of 42 U.S.C. section 1396p(d)(4)(B)(i)-(ii).

7. "Medical assistance special needs trust" means a trust or similar legal instrument or device that meets the criteria of 42 U.S.C. section 1396p(d)(4)(A) or (C).

8. "Special needs of the beneficiary attributable to the beneficiary's disability" means only those needs that would not exist but for the beneficiary's disability, not including ordinary needs, such as ordinary support and maintenance, education, and entertainment, that would exist regardless of disability.

9. "Statewide average charge for state mental health institute care" means the statewide average charge for such care as calculated by the department of human services and as published in the Iowa administrative bulletin.

10. "Statewide average charge to private-pay patients for hospital-based, medicare-certified, skilled nursing facility care" means the statewide average charge for such care, excluding nonhospital-based, medicare-certified, skilled nursing facilities, as calculated by the department of human services and as published in the Iowa administrative bulletin.

11. "Statewide average charge to private-pay patients for nonhospital-based, medicare-certified, skilled nursing facility care" means the statewide average charge for such care, excluding hospital-based, medicare-certified, skilled nursing facilities, as calculated by the department of human services and as published in the Iowa administrative bulletin.

12. "Statewide average charge for nursing facility services" means the statewide average charge for such care, excluding charges by medicare-certified, skilled nursing facilities, as calculated by the department of human services and as published in the Iowa administrative bulletin.

13. "Statewide average charge to private-pay patients for psychiatric medical institutions for children care" means the statewide average charge for such care as calculated by the department of human services and as published in the administrative bulletin.

14. "Total monthly income" means in reference to a medical assistance income trust beneficiary, income received directly by the beneficiary, not from the trust, that counts as income in determining eligibility for medical assistance, income of the beneficiary received by the trust that would otherwise count as income in determining the beneficiary's eligibility for medical assistance, and income or earnings of the trust received by the trust.

Sec. 4. NEW SECTION. 633.708 DISPOSITION OF MEDICAL ASSISTANCE SPECIAL NEEDS TRUSTS.

Regardless of the terms of a medical assistance special needs trust, any property received or held by the trust may be expended, during the life of the beneficiary, only for reasonable and necessary expenses of the trust, not to exceed ten dollars per month without court approval, for special needs of the beneficiary attributable to the beneficiary's disability and approved by the district court, for medical care or services that would otherwise be covered by medical assistance under chapter 249A, or to reimburse the state for medical assistance paid on behalf of the beneficiary.

Sec. 5. NEW SECTION. 633.709 DISPOSITION OF MEDICAL ASSISTANCE INCOME TRUSTS.

1. Regardless of the terms of a medical assistance income trust, if the beneficiary's total monthly income is less than the average statewide charge for nursing facility services to a private pay resident of a nursing facility, then, during the life of the beneficiary, any property received or held by the trust shall be expended only as follows, as applicable, and in the following order of priority:

a. A reasonable amount may be paid or set aside each month for necessary expenses of the trust, not to exceed ten dollars per month without court approval.

b. From the remaining principal or income of the trust, an amount sufficient to bring the beneficiary's available income up to three hundred percent of the benefit for an individual under the federal supplemental security income program shall be paid to or otherwise made available to the beneficiary on a monthly basis, to be counted as income or a resource in determining eligibility for medical assistance under chapter 249A.

c. If the beneficiary is an institutionalized individual, the remaining principal or income of the trust shall be paid directly to the provider of institutional care, on a monthly basis, for any cost not paid by the beneficiary from the beneficiary's available income, to reduce any amount paid as medical assistance under chapter 249A.

d. Any remaining principal or income of the trust may, at the trustee's discretion or as directed by the terms of the trust, be paid directly to providers of other medical care or services that would otherwise be covered by medical assistance, paid to the state as reimbursement for medical assistance paid on behalf of the beneficiary, or retained by the trust.

2. Regardless of the terms of a medical assistance income trust, if the beneficiary's total monthly income is at or above the average statewide charge for nursing facility services to a private pay resident, then, during the life of the beneficiary, any property received or held by the trust shall be expended only as follows, as applicable, in the following order of priority:

a. A reasonable amount may be paid or set aside each month for necessary expenses of the trust, not to exceed ten dollars per month without court approval.

b. All remaining property received or held by the trust shall be paid to or otherwise made available to the beneficiary on a monthly basis, to be counted as income or a resource in determining eligibility for medical assistance under chapter 249A.

3. Subsections 1 and 2 shall apply to the following beneficiaries, however, the following amounts indicated shall be applied in lieu of the statewide average charge for nursing facility services:

a. For a beneficiary who meets the medical assistance level of care requirements for services in an intermediate care facility for the mentally retarded and who either resides in an intermediate care facility for the mentally retarded or is eligible for medical assistance home

and community-based waiver services except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the maximum monthly medical assistance payment rate for services in an intermediate care facility for the mentally retarded.

b. For a beneficiary who meets the medical assistance level of care requirements for hospital-based, medicare-certified, skilled nursing facility care and who either resides in a hospital-based, medicare-certified, skilled nursing facility or is eligible for medical assistance home and community-based waiver services except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the statewide average charge to private-pay patients for hospital-based, medicare-certified, skilled nursing facility care.

c. For a beneficiary who meets the medical assistance level of care requirements for nonhospital-based, medicare-certified, skilled nursing facility care and who either resides in a nonhospital-based, medicare-certified, skilled nursing facility or is eligible for medical assistance home and community-based waiver services except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the statewide average charge to private-pay patients for nonhospital-based, medicare-certified, skilled nursing facility care.

d. For a beneficiary who meets the medical assistance level of care requirements for services in a psychiatric medical institution for children and who resides in a psychiatric medical institution for children, the applicable rate is the statewide average charge to private-pay patients for psychiatric medical institution for children care.

e. For a beneficiary who meets the medical assistance level of care requirements for services in a state mental health institute and who either resides in a state mental health institute or is eligible for medical assistance home and community-based waiver services except that the beneficiary's income exceeds the allowable maximum, the applicable rate is the statewide average charge for state mental health institute care.

Sec. 6. NEW SECTION. 633.710 OTHER POWERS OF TRUSTEES.

1. Sections 633.708 and 633.709 shall not be construed to limit the authority of the trustees to invest, sell, or otherwise manage property held in trust.

2. The trustee of a medical assistance income trust or a medical assistance special needs trust is a fiduciary for purposes of this chapter and, in the exercise of the trustee's fiduciary duties, the state shall be considered a beneficiary of the trust. Regardless of the terms of the trust, the trustee shall not take any action that is not prudent in light of the state's interest in the trust.

Sec. 7. NEW SECTION. 633.711 COOPERATION.

1. The department of human services shall cooperate with the trustee of a medical assistance special needs trust or a medical assistance income trust in determining the appropriate disposition of the trust under sections 633.708 and 633.709.

2. The trustee of a medical assistance special needs trust or medical assistance income trust shall cooperate with the department of human services in supplying information regarding a trust established under this division.

DIVISION II
Transfers of Assets

Sec. 8. Section 249A.3, subsection 7, Code Supplement 1993, is amended to read as follows:

7. In determining the eligibility of an individual for medical assistance under this chapter, the department shall consider resources transferred to the individual's spouse on or after October 1, 1989, or to a person other than the individual's spouse on or after July 1, ~~1992~~ 1989 and prior to August 11, 1993, ~~which are nonexempt resources or interests in resources, owned by the transferor within the preceding sixty months which the transferor gave away or sold at less than fair market value for the purpose of establishing eligibility for medical assistance under this chapter, to the extent consistent with the federal Social Security Act, section 1917(c), as codified in 42 U.S.C. § 1396p(c), as amended~~ as provided by the federal Medicare Catastrophic

Coverage Act of 1988, Pub. L. No. 100-360, section 303(b), as amended by the federal Family Support Act of 1988, Pub. L. No. 100-485, section 608(d)(16)(B), (D), and the federal Omnibus Budget Reconciliation Act of 1989, Pub. L. No. 101-239, section 6411(e)(1).

Sec. 9. Section 249A.3, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 11. a. In determining the eligibility of an individual for medical assistance, the department shall consider transfers of assets made on or after August 11, 1993, as provided by the federal Social Security Act, section 1917(c), as codified in 42 U.S.C. section 1396p(c).

b. The department shall exercise the option provided in 42 U.S.C. section 1396p(c) to provide a period of ineligibility for medical assistance due to a transfer of assets by a noninstitutionalized individual or the spouse of a noninstitutionalized individual. For noninstitutionalized individuals, the number of months of ineligibility shall be equal to the total, cumulative uncompensated value of all assets transferred by the individual or the individual's spouse on or after the look-back date specified in 42 U.S.C. section 1396p(c)(1)(B)(i), divided by the average monthly cost to a private patient for nursing facility services in Iowa at the time of application. The services for which noninstitutionalized individuals shall be made ineligible shall include any long-term care services for which medical assistance is otherwise available. Notwithstanding section 17A.4, the department may adopt rules providing a period of ineligibility for medical assistance due to a transfer of assets by a noninstitutionalized individual or the spouse of a noninstitutionalized individual without notice of opportunity for public comment, to be effective immediately upon filing under section 17A.5, subsection 2, paragraph "b", subparagraph (1).

DIVISION III
Estate Recovery

Sec. 10. Section 249A.5, Code 1993, is amended to read as follows:

249A.5 RECOVERY OF PAYMENT.

1. Medical assistance paid to, or on behalf of, a recipient or paid to a provider of services is not recoverable, except as provided in subsection 2, unless the assistance was incorrectly paid. Assistance incorrectly paid is recoverable from the provider, or from the recipient, while living, as a debt due the state and, upon the recipient's death, as a claim classified with taxes having preference under the laws of this state.

2. The provision of medical assistance to an individual who is fifty-five years of age or older, or who is a resident of a nursing facility, intermediate care facility for the mentally retarded, or mental health institute, who cannot reasonably be expected to be discharged and return to the individual's home, creates a debt due the department from the individual's estate for all medical assistance provided on the individual's behalf, upon the individual's death.

a. The department shall waive the collection of the debt created under this subsection from the estate of a recipient of medical assistance to the extent that collection of the debt would result in either of the following:

(1) Reduction in the amount received from the recipient's estate by a surviving spouse, or by a surviving child who was under age twenty-one, blind, or permanently and totally disabled at the time of the individual's death.

(2) Otherwise work an undue hardship as determined on the basis of criteria established pursuant to 42 U.S.C. section 1396p(b)(3).

b. If the collection of all or part of a debt is waived pursuant to subsection 2, paragraph "a", subparagraph (1), the amount waived shall be a debt due from the estate of the recipient's surviving spouse or blind or disabled child, upon the death of the spouse or child, or due from a surviving child who was under twenty-one years of age at the time of the recipient's death, upon the child reaching age twenty-one, to the extent the recipient's estate is received by the surviving spouse or child.

c. For purposes of this section, the estate of a medical assistance recipient, surviving spouse, or surviving child includes any real property, personal property, or other asset in which the recipient, spouse, or child had any legal title or interest at the time of the recipient's, spouse's, or child's death, to the extent of such interests, including but not limited to interests in jointly held property and interests in trusts.

d. For purposes of collection of a debt created by this subsection, all assets included in the estate of a medical assistance recipient, surviving spouse, or surviving child pursuant to paragraph "c" are subject to probate.

e. Interest shall accrue on a debt due under this subsection, at the rate provided pursuant to section 535.3, beginning six months after the death of a medical assistance recipient, surviving spouse, or surviving child.

Sec. 11. Section 633.425, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. Any debt for medical assistance paid pursuant to section 249A.5, subsection 2.

DIVISION IV
Area Education Agencies — Educational Services

Sec. 12. Section 256B.15, subsection 7, Code 1993, is amended to read as follows:

7. a. ~~Except as otherwise provided in this subsection, all reimbursements received by the area education agencies for eligible services shall be paid annually to the treasurer of state~~ The treasurer of the state shall credit receipts received under this section to the department of human services to pay contractual fees incurred by the department to maximize federal funding for special education services. All remaining receipts in excess of the amount necessary to pay contractual fees shall be credited to the general fund of the state.

b. The area education agencies shall, after determining the administrative costs associated with the implementation of medical assistance reimbursement for the eligible services, be permitted to retain up to twenty-five percent of the federal portion of the total amount reimbursed to pay for the administrative costs. Funds received under this ~~subsection~~ section shall not be considered or included as part of the area education agencies' budgets when calculating funds that are to be received by area education agencies during a fiscal year. ~~Except as otherwise provided in this subsection, the treasurer of state shall credit all receipts received under this subsection to the general fund of the state.~~

Sec. 13. EFFECTIVE DATE. The section of this division of this Act which amends Code section 256B.15, being deemed of immediate importance, takes effect upon enactment and is retroactive to July 1, 1993.

DIVISION V
Psychiatric Medical Institutions for Children

Sec. 14. Section 135H.1, subsection 6, Code 1993, is amended by striking the subsection.

Sec. 15. Section 135H.1, subsection 9, Code 1993, is amended to read as follows:

9. "Psychiatric medical institution for children" or "psychiatric institution" means ~~a nonsecure~~ an institution providing more than twenty-four hours of continuous care involving long-term psychiatric services to three or more children in residence for expected periods of fourteen or more days for diagnosis and evaluation or for expected periods of ninety days or more for treatment.

DIVISION VI

Sec. 16. Section 249A.3, subsection 1, paragraph g, Code Supplement 1993, is amended to read as follows:

g. (1) Is a child who is ~~less than eight~~ one through five years of age as prescribed by the federal Omnibus Budget Reconciliation Act of ~~1987~~ 1989, Pub. L. No. ~~100-203~~ § ~~4101~~ 101-239, § 6401, whose income is not more than one hundred thirty-three percent of the federal poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

(2) Is a child born after September 30, 1983, who has attained six years of age but has not attained nineteen years of age as prescribed by the federal Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, § 4601, whose income is not more than one hundred percent of the federal poverty level, as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

Approved April 26, 1994

CHAPTER 1121

FRAUDULENT TRANSFERS

H.F. 2384

AN ACT relating to commercial transactions, by enacting the Uniform Fraudulent Transfer Act, and providing for the repeal of certain Code sections, and providing an effective and applicability date.

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

Section 1. Section 322D.6, Code 1993, is amended to read as follows:

322D.6 SECURITY INTERESTS NOT AFFECTED.

The provisions of this chapter shall not be construed to affect, in any way, the existence or enforcement of any security interest which a supplier, any financial institution or any other person may have in the inventory of the retailer~~, and any repurchase of inventory which is made hereunder shall not be subject to the bulk sales provisions of chapter 554, article 6, of the uniform commercial code~~.

Sec. 2. Section 322F.4, Code 1993, is amended to read as follows:

322F.4 SECURITY INTERESTS NOT AFFECTED.

This chapter shall not be construed to affect the existence or enforcement of a security interest which any person, including a supplier or financial institution, may have in the inventory of the dealer. ~~The repurchase of inventory which is made under this chapter shall not be subject to the bulk sales provision of chapter 554, article 6 of the uniform commercial code.~~

Sec. 3. Section 554.1105, subsection 2, Code 1993, is amended to read as follows:

2. Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 554.2402.

Applicability of the Article on Bank Deposits and Collections. Section 554.4102.

~~Bulk transfers subject to the Article on Bulk Transfers. Section 554.6102.~~

Applicability of the Article on Investment Securities. Section 554.8106.

Perfection provisions of the Article on Secured Transactions. Section 554.9103.

Governing law in the Article on Funds Transfers. Section 554.12507.

Sec. 4. Section 554.2403, subsection 4, Code 1993, is amended to read as follows:

4. The rights of other purchasers of goods and of lien creditors are governed by the Articles on Secured Transactions (Article 9), ~~Bulk Transfers (Article 6)~~ and Documents of Title (Article 7).

Sec. 5. NEW SECTION. 684.1 DEFINITIONS.

As used in this chapter:

1. "Affiliate" means any of the following:

a. A person who directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities as either of the following:

(1) As a fiduciary or agent without sole discretionary power to vote the securities.

(2) Solely to secure a debt, if the person has not exercised the power to vote.

b. A corporation twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities as either of the following:

(1) As a fiduciary or agent without sole power to vote the securities.

(2) Solely to secure a debt, if the person has not in fact exercised the power to vote.

c. A person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor.

d. A person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

2. "Asset" means property of a debtor, but does not include any of the following:

a. Property to the extent it is encumbered by a valid lien.

b. Property to the extent it is generally exempt under nonbankruptcy law.

c. An interest in property held in tenancy by the entireties to the extent it is not subject to process by a creditor holding a claim against only one tenant.

3. "Claim" means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

4. "Creditor" means a person who has a claim.

5. "Debt" means liability on a claim.

6. "Debtor" means a person who is liable on a claim.

7. "Insider" includes all of the following:

a. If the debtor is an individual, all of the following:

(1) A relative of the debtor or of a general partner of the debtor.

(2) A partnership in which the debtor is a general partner.

(3) A general partner in a partnership described in subparagraph (2).

(4) A corporation of which the debtor is a director, officer, or person in control.

b. If the debtor is a corporation, all of the following:

(1) A director of the debtor.

(2) An officer of the debtor.

(3) A person in control of the debtor.

(4) A partnership in which the debtor is a general partner.

(5) A general partner in a partnership described in subparagraph (4).

(6) A relative of a general partner, director, officer, or person in control of the debtor.

c. If the debtor is a partnership, all of the following:

(1) A general partner in the debtor.

(2) A relative of a general partner in, or a general partner of, or a person in control of the debtor.

(3) Another partnership in which the debtor is a general partner.

(4) A general partner in a partnership described in subparagraph (3).

(5) A person in control of the debtor.

d. An affiliate, or an insider of an affiliate as if the affiliate were the debtor.

e. A managing agent of the debtor.

8. "Lien" means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

9. "Property" means anything that may be the subject of ownership.

10. "Relative" means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

11. "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

12. "Valid lien" means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

Sec. 6. NEW SECTION. 684.2 INSOLVENCY.

1. A debtor is insolvent if the sum of the debtor's debts is greater than all of the debtor's assets, at a fair valuation.

2. A debtor who is generally not paying the debtor's debts as they become due is presumed to be insolvent.

3. A partnership is insolvent under subsection 1 if the sum of the partnership's debts is greater than the aggregate, at a fair valuation, of all of the partnership's assets, and the sum of the excess of the value of each general partner's nonpartnership assets over the partner's nonpartnership debts.

4. Assets under this section do not include property that has been transferred, concealed, or removed with intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer voidable under this chapter.

5. Debts under this section do not include an obligation to the extent it is secured by a valid lien on property of the debtor not included as an asset.

Sec. 7. NEW SECTION. 684.3 VALUE.

1. Value is given for a transfer or an obligation if, in exchange for the transfer or obligation, property is transferred or an antecedent debt is secured or satisfied, but value does not include an unperformed promise made otherwise than in the ordinary course of the promisor's business to furnish support to the debtor or another person.

2. For the purposes of section 684.4, subsection 1, paragraph "b", and section 684.5, a person gives a reasonably equivalent value if the person acquires an interest of the debtor in an asset pursuant to a regularly conducted, noncollusive foreclosure sale or execution of a power of sale for the acquisition or disposition of the interest of the debtor upon default under a mortgage, deed of trust, or security agreement.

3. A transfer is made for present value if the exchange between the debtor and the transferee is intended by them to be contemporaneous and is in fact substantially contemporaneous.

Sec. 8. NEW SECTION. 684.4 TRANSFERS FRAUDULENT AS TO PRESENT AND FUTURE CREDITORS.

1. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor, whether the creditor's claim arose before or after the transfer was made or the obligation was incurred, if the debtor made the transfer or incurred the obligation under any of the following circumstances:

a. With actual intent to hinder, delay, or defraud any creditor of the debtor.

b. Without receiving a reasonably equivalent value in exchange for the transfer or obligation, if either of the following applies:

(1) The debtor was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction.

(2) The debtor intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor's ability to pay as they became due.

2. In determining actual intent under subsection 1, paragraph "a", consideration may be given, among other factors, to any or all of the following:

a. Whether the transfer or obligation was to an insider.

b. Whether the debtor retained possession or control of the property transferred after the transfer.

c. Whether the transfer or obligation was disclosed or concealed.

d. Whether, before the transfer was made or obligation was incurred, the debtor had been sued or threatened with suit.

e. Whether the transfer was of substantially all the debtor's assets.

f. Whether the debtor absconded.

g. Whether the debtor removed or concealed assets.

h. Whether the value of the consideration received by the debtor was reasonably equivalent to the value of the asset transferred or the amount of the obligation incurred.

i. Whether the debtor was insolvent or became insolvent shortly after the transfer was made or the obligation was incurred.

j. Whether the transfer occurred shortly before or shortly after a substantial debt was incurred.

k. Whether the debtor transferred the essential assets of the business to a lienor who transferred the assets to an insider of the debtor.

Sec. 9. NEW SECTION. 684.5 TRANSFERS FRAUDULENT AS TO PRESENT CREDITORS.

1. A transfer made or obligation incurred by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made or the obligation was incurred if the debtor made the transfer or incurred the obligation without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at that time or the debtor became insolvent as a result of the transfer or obligation.

2. A transfer made by a debtor is fraudulent as to a creditor whose claim arose before the transfer was made if the transfer was made to an insider for an antecedent debt, the debtor was insolvent at that time, and the insider had reasonable cause to believe that the debtor was insolvent.

Sec. 10. NEW SECTION. 684.6 WHEN TRANSFER IS MADE OR OBLIGATION IS INCURRED.

For the purposes of this chapter:

1. A transfer is made under either of the following circumstances:

a. With respect to an asset that is real property other than a fixture, but including the interest of a seller or purchaser under a contract for the sale of the asset, when the transfer is so far perfected that a good-faith purchaser of the asset from the debtor against whom applicable law permits the transfer to be perfected cannot acquire an interest in the asset that is superior to the interest of the transferee.

b. With respect to an asset that is not real property or that is a fixture, when the transfer is so far perfected that a creditor on a simple contract cannot acquire a judicial lien otherwise than under this chapter that is superior to the interest of the transferee.

2. If applicable law permits the transfer to be perfected as provided in subsection 1 and the transfer is not so perfected before the commencement of an action for relief under this chapter, the transfer is deemed made immediately before the commencement of the action.

3. If applicable law does not permit the transfer to be perfected as provided in subsection 1, the transfer is made when it becomes effective between the debtor and the transferee.

4. A transfer is not made until the debtor has acquired rights in the asset transferred.

5. An obligation is incurred under either of the following circumstances:

a. If oral, when it becomes effective between the parties.

b. If evidenced by a writing, when the writing executed by the obligor is delivered to or for the benefit of the obligee.

Sec. 11. NEW SECTION. 684.7 REMEDIES OF CREDITORS.

1. In an action for relief against a transfer or obligation under this chapter, a creditor, subject to the limitations in section 684.8, may obtain any of the following:

a. Avoidance of the transfer or obligation to the extent necessary to satisfy the creditor's claim.

b. A remedy by any special action available under this subtitle, including attachment or other provisional remedy, against the asset transferred or other property of the transferee.

c. Subject to applicable principles of equity and in accordance with applicable rules of civil procedure, any of the following:

(1) An injunction against further disposition by the debtor or a transferee, or both, of the asset transferred or of other property.

(2) Appointment of a receiver to take charge of the asset transferred or of other property of the transferee.

(3) Any other relief the circumstances may require.

2. If a creditor has obtained a judgment on a claim against the debtor, the creditor, if the court so orders, may levy execution on the asset transferred or its proceeds.

Sec. 12. NEW SECTION. 684.8 DEFENSES, LIABILITY, AND PROTECTION OF TRANSFEREE.

1. A transfer or obligation is not voidable under section 684.7, subsection 1, paragraph "a", against a person who took in good faith and for a reasonably equivalent value or against any subsequent transferee or obligee.

2. Except as otherwise provided in this section, to the extent a transfer is voidable in an action by a creditor under section 684.7, subsection 1, paragraph "a", the creditor may recover judgment for the value of the asset transferred, as adjusted under subsection 3, or the amount necessary to satisfy the creditor's claim, whichever is less. The judgment may be entered against either of the following:

a. The first transferee of the asset or the person for whose benefit the transfer was made.

b. Any subsequent transferee other than a good-faith transferee or obligee who took for value or from any subsequent transferee or obligee.

3. If the judgment under subsection 2 is based upon the value of the asset transferred, the judgment must be for an amount equal to the value of the asset at the time of the transfer, subject to adjustment as the equities may require.

4. Notwithstanding voidability of a transfer or an obligation under this chapter, a good-faith transferee or obligee is entitled, to the extent of the value given the debtor for the transfer or obligation, to any of the following:

a. A lien on or a right to retain any interest in the asset transferred.

b. Enforcement of any obligation incurred.

c. A reduction in the amount of the liability on the judgment.

5. A transfer is not voidable under section 684.4, subsection 1, paragraph "b", or section 684.5 if the transfer results from either of the following:

a. Termination of a lease upon default by the debtor when the termination is pursuant to the lease and applicable law.

b. Enforcement of a security interest in compliance with chapter 554, article 9.

6. A transfer is not voidable under section 684.5, subsection 2, in any of the following circumstances:

a. To the extent the insider gave new value to or for the benefit of the debtor after the transfer was made unless the new value was secured by a valid lien.

b. If made in the ordinary course of business or financial affairs of the debtor and the insider.

c. If made pursuant to a good-faith effort to rehabilitate the debtor and the transfer secured present value given for that purpose as well as an antecedent debt of the debtor.

Sec. 13. NEW SECTION. 684.9 EXTINGUISHMENT OF CAUSE OF ACTION.

A cause of action with respect to a fraudulent transfer or obligation under this chapter is extinguished unless action is brought as follows:

1. Under section 684.4, subsection 1, paragraph "a", within five years after the transfer was made or the obligation was incurred or, if later, within one year after the transfer or obligation was or could reasonably have been discovered by the claimant.

2. Under section 684.4, subsection 1, paragraph "b", or section 684.5, subsection 1, within five years after the transfer was made or the obligation was incurred.

3. Under section 684.5, subsection 2, within one year after the transfer was made or the obligation was incurred.

Sec. 14. NEW SECTION. 684.10 SUPPLEMENTARY PROVISIONS.

Unless displaced by the provisions of this chapter, the principles of law and equity, including the law merchant and the law relating to principal and agent, estoppel, laches, fraud, misrepresentation, duress, coercion, mistake, insolvency, or other validating or invalidating cause, supplement its provisions.

Sec. 15. NEW SECTION. 684.11 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

Sec. 16. NEW SECTION. 684.12 SHORT TITLE.

This chapter may be cited as the "Uniform Fraudulent Transfer Act."

Sec. 17. REPEALS. Sections 554.6101 through 554.6111, and 554.9111, Code 1993, are repealed.

Sec. 18. EFFECTIVE DATE AND APPLICATION. This Act takes effect on January 1, 1995, and applies to all causes of action arising on or after that date.

Approved April 26, 1994

CHAPTER 1122

JURISDICTION OF DISTRICT ASSOCIATE JUDGES

S.F. 2107

AN ACT relating to the jurisdiction of district associate judges.

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

Section 1. Section 602.6306, subsection 2, Code 1993, is amended to read as follows:

2. District associate judges also have jurisdiction in civil actions for money judgment where the amount in controversy does not exceed ~~five~~ ten thousand dollars, jurisdiction over involuntary commitment, treatment, or hospitalization proceedings under chapters 125 and 229, jurisdiction of indictable misdemeanors, and felony violations of section 321J.2, and to make court appointments and set hearings in criminal matters, jurisdiction to enter orders in probate which do not require notice and hearing and to set hearings in actions under chapter 633, and the jurisdiction provided in section 602.7101 when designated as a judge of the juvenile court. While presiding in these subject matters a district associate judge shall employ district judges' practice and procedure.

Sec. 2. Section 633.13, unnumbered paragraph 2, Code 1993, is amended to read as follows:

A district judge or a district associate judge has statewide jurisdiction to enter orders in probate matters not requiring notice and hearing, although the judge is not a judge of or present in the district in which the probate matter is pending. The orders shall be made in conformity with the rules of the district in which the probate matter is pending.

Approved April 28, 1994

CHAPTER 1123

TEMPORARY LICENSURE OF NURSES

S.F. 2109

AN ACT relating to temporary licensure of nurses.

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

Section 1. Section 152.9, Code 1993, is amended to read as follows:

152.9 TEMPORARY LICENSE.

The board may issue a temporary license to a natural person who has completed the requirements of and applied for licensure~~, either~~ by ~~examination or~~ endorsement. ~~A temporary license shall not remain effective longer than the time between application and the next issuance of licenses. A temporary license issued to a person not holding a foreign license to practice nursing shall be valid only when the temporary licensee is under the supervision of a registered nurse.~~ The board shall determine the length of time a temporary license shall remain effective.

Approved April 28, 1994

CHAPTER 1124

REFUNDS BY DISTRICT COURT CLERKS

S.F. 2126

AN ACT relating to payment by clerks of the district court of amounts less than one dollar.

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

Section 1. Section 602.8102, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 11. Refund amounts less than one dollar only upon written application.

Approved April 28, 1994

CHAPTER 1125

RENT REIMBURSEMENT CLAIMS FOR LOW-INCOME PERSONS

S.F. 2133

AN ACT relating to rent reimbursement claims for low-income persons and providing an effective and applicability date provision.

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

Section 1. Section 425.17, subsection 2, paragraph b, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

"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~~ June 1 of each year and the director's decision is final.

Sec. 2. Section 425.17, subsections 3 and 9, Code Supplement 1993, are amended to read as follows:

3. "Gross rent" means rental paid at arm's length ~~solely~~ for the right of occupancy of a homestead or mobile home, including rent for space occupied by a mobile home not to exceed one acre~~, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as a part of the rental agreement whether or not expressly set out in the rental agreement~~. If the director of revenue and finance determines that the landlord and tenant have not dealt with each other at arm's length, and the director of revenue and finance is satisfied that the gross rent charged was excessive, the director shall adjust the gross rent to a reasonable amount as determined by the director. ~~If the landlord does not supply the charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord, or if the charges appear to be incorrect, the director of revenue and finance may apply a percentage determined from samples of similar gross rents paid solely for the right of occupancy.~~

9. "Rent constituting property taxes paid" means ~~twenty-seven and one-half~~ twenty-three percent of the gross rent actually paid in cash or its equivalent during the base year by the claimant or the claimant's household solely for the right of occupancy of their homestead in the base year, and which rent constitutes the basis, in the succeeding year, of a claim for reimbursement under this division by the claimant.

Sec. 3. Section 425.20, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A claim for reimbursement for rent constituting property taxes paid shall not be paid or allowed, unless the claim is actually filed with and in the possession of the department of revenue and finance on or before ~~October 31~~ June 1 of the year following the base year.

Sec. 4. Section 425.26, subsection 2, Code 1993, is amended to read as follows:

2. Property taxes due or rent constituting property taxes paid, including ~~the portion of gross rent paid for providing utilities, services, furniture, furnishings, and personal property appliances, and~~ the name and address of the owner or manager of the property rented and a statement whether the claimant is related by blood, marriage, or adoption to the owner or manager of the property rented;

Sec. 5. This Act takes effect January 1, 1995, for rent reimbursement claims filed on or after that date.

Approved April 28, 1994

CHAPTER 1126

TEACHER LICENSES AND ENDORSEMENTS
S.F. 2169

AN ACT relating to teacher licensure terms and endorsements.

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

Section 1. Section 272.7, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A license issued under board authority is valid for the period of time for which it is issued, unless the license is suspended or revoked. A license issued by the board is valid until ~~June 30~~ August 31 of the year in which the license expires. No permanent licenses shall be issued. A person employed as a practitioner shall hold a valid license with an endorsement for the type of service for which the person is employed. This section does not limit the duties or powers of a school board to select or discharge practitioners or to terminate practitioners' contracts. A professional development program, except for a program offered by a practitioner preparation institution or area education agency and approved by the state board of education, must possess a valid license for the types of programs offered.

Sec. 2. Section 272.34, Code 1993, is repealed.

Approved April 28, 1994

CHAPTER 1127

JUDICIAL DEPARTMENT – FACILITIES – DISTRICT ASSOCIATE JUDGES
S.F. 2230

AN ACT relating to the numbers of and facilities for officers of the judicial department; permitting an increase in the number of district associate judges in certain counties; and permitting the use of available funds for offices for judges on the court of appeals.

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

Section 1. Section 602.5205, subsection 2, Code 1993, is amended to read as follows:

2. ~~State funds shall not be used for securing or maintaining facilities~~ Offices may be provided for court of appeals judges or employees at any place other than the seat of state government with the approval of the supreme court within the funds available to the judicial department.

Sec. 2. Section 602.6301, Code 1993, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population, according to the most recent federal decennial census, of more than thirty-five thousand and less than eighty thousand; two in counties having a population of ~~more than~~ eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of ~~more than~~ one hundred twenty-five thousand or more and less than two hundred thousand; ~~and~~ four in counties having a population of two hundred thousand or ~~above~~ more and less than two hundred thirty-five thousand; five in counties having a population of two hundred thirty-five thousand or more and less than two hundred seventy thousand; six in counties having a population of two hundred seventy thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county,

implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial department. A district associate judge appointed pursuant to section 602.6302 or 602.6303 shall not be counted for purposes of this section.

Approved April 28, 1994

CHAPTER 1128

SEXUAL ABUSE, OBSCENE MATERIAL, AND RELATED MATTERS

H.F. 121

AN ACT relating to certain public offenses, by extending the statute of limitations, and by creating additional offenses which constitute sexual abuse in the third degree and which constitute failure of commercial film and photographic print processors to report depictions of minors engaged in prohibited sexual acts.

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

Section 1. Section 709.4, subsection 2, paragraph c, subparagraph (4), Code 1993, is amended to read as follows:

(4) The person is ~~six~~ five or more years older than the other participant.

Sec. 2. Section 728.14, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a depiction of the nude minor.

Sec. 3. Section 802.2, Code 1993, is amended to read as follows:

802.2 SEXUAL ABUSE OF CHILD.

An information or indictment for sexual abuse in the first, second, or third degree committed on or with a ~~child~~ person who is under the age of ~~twelve~~ eighteen years shall be found ~~not later than six months~~ within five years after the ~~child~~ person upon whom the offense is committed attains eighteen years of age.

Approved April 28, 1994

CHAPTER 1129

CHILD DAY CARE

H.F. 2003

AN ACT relating to child day care provisions involving age and school status of the children receiving care and building and nutrition requirements.

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

Section 1. Section 237A.1, subsection 8, paragraph b, Code Supplement 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, or for less than sixteen children at any one time as authorized in accordance with section 237A.3, subsection 3, provided each child in excess of six children is attending school ~~full-time on a regular basis~~ in kindergarten or a higher grade level.

Sec. 2. Section 237A.3, subsection 1, paragraph b, Code Supplement 1993, is amended to read as follows:

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~~ in kindergarten or a higher grade level.

Sec. 3. Section 237A.3, subsection 1, paragraph d, Code Supplement 1993, is amended to read as follows:

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~~ in kindergarten or a higher grade level 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.

Sec. 4. Section 237A.12, subsection 3, Code 1993, is amended to read as follows:

3. The adequacy of activity programs and food services available to the children. The administrator shall not restrict the use of or apply nutritional standards to a lunch or other meal which is brought to the center or family day care home by a school-age child for the child's consumption.

Sec. 5. Section 237A.12, unnumbered paragraphs 2, 3, 4, and 5, Code 1993, are amended to read as follows:

Rules ~~promulgated~~ adopted by the state fire marshal for buildings, other than school buildings, used as child care centers as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from rules ~~promulgated~~ adopted for these buildings when they are used by groups of persons congregating from time to time in the primary use and occupancy of the buildings. However, the rules may require a fire-rated separation from the remaining portion of the building if the fire marshal determines that the separation is necessary for the protection of children from a specific flammable hazard.

Rules relating to fire safety shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child day care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child day care advisory council. The state fire marshal shall inspect the facilities.

If a building is owned or leased by a school district or accredited nonpublic school ~~building~~ and complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child day care facility caring for school age children. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

Standards and requirements set by a city or county for a ~~school~~ building which is owned or leased by a school district or accredited nonpublic school and used as a child day care facility ~~as an adjunct to the primary purpose of the building~~ shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for ~~the primary purpose~~ use of the building as a school.

Approved April 28, 1994

CHAPTER 1130

CHILD ABUSE AND DEPENDENT ADULT ABUSE

H.F. 2261

AN ACT relating to child abuse provisions involving child abuse definitions, mandatory reporters, investigation procedures, and correction of child abuse information, and providing an effective date.

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

DIVISION I
CHILD ABUSE DEFINITIONS

Section 1. Section 232.68, subsection 2, paragraph f, Code Supplement 1993, is amended to read as follows:

f. 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~~ person responsible for the care of the child.

Sec. 2. Section 232.68, subsection 7, paragraph b, Code Supplement 1993, is amended to read as follows:

b. A relative or any other person with whom the child resides and who assumes care or supervision of the child, without reference to the length of time or continuity of such residence.

DIVISION II
MANDATORY REPORTERS OF CHILD ABUSE

Sec. 3. Section 232.69, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse:

(1) ~~Every~~ A self-employed social worker, ~~every~~.

(2) A social worker under the jurisdiction of the department of human services, ~~any~~.

(3) A social worker employed by a public or private agency or institution,.

(4) An employee or operator of a public or private health care facility as defined in section 135C.1,.

(5) A certified psychologist,.

(6) A licensed school employee,.

(7) An employee or operator of a licensed child care center or registered group day care home or registered family day care home~~, individual licensee under chapter 237, member of the staff~~.

(8) An employee or operator of a substance abuse program or facility licensed under chapter 125.

(9) An employee of a department of human services institution listed in section 218.1.

(10) An employee or operator of a juvenile detention or juvenile shelter care facility approved under section 232.142.

(11) An employee or operator of a foster care facility licensed or approved under chapter 237.

(12) An employee or operator of a mental health center;.

(13) A peace officer;.

(14) A dental hygienist;.

(15) A counselor, or mental health professional~~, who, in the scope of professional practice or in providing child foster care, examines, attends, counsels or treats a child and reasonably believes a child has suffered abuse~~.

DIVISION III
CHILD ABUSE INVESTIGATIONS

Sec. 4. Section 232.71, subsection 1, Code Supplement 1993, is amended to read as follows:

1. If a report is determined to constitute a child abuse allegation, the department of human services shall promptly commence an appropriate investigation. The primary purpose of this investigation shall be the protection of the child named in the report. The department, within five working days of commencing the investigation, shall provide written notification of the investigation to the child's parents. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall ~~issue an emergency order restraining the notification~~ orally direct the department to withhold notification. Within one working day of issuing an oral directive, the court shall issue a written order restraining the notification. If a report is determined ~~to~~ not to constitute a child abuse allegation, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

Sec. 5. Section 232.71, subsection 2, paragraph d, Code Supplement 1993, is amended to read as follows:

d. An evaluation of the home environment. ~~and relationship of~~ If protective concerns are identified, the department shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

Sec. 6. Section 232.77, subsection 1, Code Supplement 1993, is amended to read as follows:

1. ~~Any~~ A person who is required to report a case of child abuse may take or cause to be taken, at public expense, photographs, ~~or~~ X rays, or other physical examinations or tests of ~~the areas of trauma visible on~~ a child which would provide medical indication of allegations arising from a child abuse investigation. ~~Any~~ A health practitioner may, if medically indicated, cause to be performed radiological examination, physical examination, or other medical tests of the child. ~~Any~~ A person who takes any photographs or X rays or performs physical examinations or other tests pursuant to this section shall notify the department of human services that ~~such~~ the photographs or X rays have been taken~~, and~~ or the examinations or other tests have been performed. The person who made notification shall retain ~~such~~ the photographs or X rays or examination or test findings for a reasonable time ~~thereafter~~ following the notification. Whenever ~~such~~ the person is required to report under section 232.69, in that person's capacity as a member of the staff of a medical or other private or public institution, agency or facility, that person shall immediately notify the person in charge of ~~such~~ the institution, agency, or facility or that person's designated delegate of the need for photographs or X rays or examinations or other tests.

Sec. 7. 1993 Iowa Acts, chapter 172, sections 32, 33, 38, and 39, are repealed.

Sec. 8. EFFECTIVE DATE. Section 7 of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION IV
CHILD ABUSE INFORMATION

Sec. 9. Section 235A.18, subsection 2, unnumbered paragraph 1, Code Supplement 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 sealed one year after the receipt of the initial report of abuse and 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~~ six months after the date it is determined to be unfounded. During the six-month period the information shall be sealed and is accessible only through a court order. A report shall be determined to be unfounded as a result of any of the following:

Sec. 10. Section 235A.19, subsections 1, 2, and 3, Code 1993, are amended to read as follows:

1. ~~Any person or that person's attorney~~ A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", shall have the right to examine child abuse information in the registry which refers to ~~that person~~ the subject. The registry may prescribe reasonable hours and places of examination.

2. a. A ~~person~~ subject of a child abuse report may file with the department within six months of the date of the notice of the results of an investigation required by section 232.71, subsection 7, a written statement to the effect that child abuse information referring to the ~~person~~ subject is in whole or in part erroneous, and may request a correction of that information or of the findings of the investigation report. The department shall provide the ~~person~~ subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information or the findings, unless the department corrects the information or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information or findings.

b. The department shall not disclose any child abuse information until the conclusion of the proceeding to correct the information or findings, except as follows:

(1) As necessary for the proceeding itself.

(2) To the parties and attorneys involved in a judicial proceeding.

(3) For the regulation of child care or child placement.

(4) Pursuant to court order.

(5) To the subject of an investigation or a report.

(6) For the care or treatment of a child named in a report as a victim of abuse.

(7) To persons involved in an investigation of child abuse.

3. The subject of a child abuse report may appeal the decision resulting from ~~the~~ a hearing ~~may be appealed~~ held pursuant to subsection 2 to the district court of Polk county ~~by the person requesting the correction~~ or to the district court of the district in which the ~~person~~ subject of the child abuse report resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the child abuse information. Appeal shall be taken in accordance with chapter 17A.

DIVISION V
CHILD OR DEPENDENT ADULT ABUSE INFORMATION – USE AND ACCESS

Sec. 11. Section 125.14A, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 5. In addition to the record checks required under this section, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of this

section, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random check conducted under this subsection.

NEW SUBSECTION. 6. Beginning July 1, 1994, a program or facility shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

NEW SUBSECTION. 7. On or after July 1, 1994, a program or facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime in this state or any other state?"

Sec. 12. NEW SECTION. 135C.33 CHILD OR DEPENDENT ADULT ABUSE INFORMATION AND CRIMINAL RECORDS – EVALUATIONS.

1. On or after July 1, 1994, with regard to new applicants for licensure or employment, if a person is being considered for licensure under this chapter, or for employment involving direct responsibility for a resident or with access to a resident when the resident is alone, or if the person considered for licensure or employment under this chapter will reside in a facility, the facility may request that the department of human services conduct criminal and child and dependent adult abuse record checks in this state and in other states, on a random basis. Beginning July 1, 1994, a facility shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information. Additionally, on or after July 1, 1994, a facility shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?" If the person has been convicted of a crime under a law of any state or has a record of founded child or dependent adult abuse, the department of human services shall perform an evaluation to determine whether the crime or founded child or dependent adult abuse warrants prohibition of licensure, employment, or residence in the facility. The evaluation shall be performed in accordance with procedures adopted for this purpose by the department of human services.

2. If the department of human services determines that a person has committed a crime or has a record of founded child or dependent adult abuse and is licensed, employed by a facility licensed under this chapter, or resides in a licensed facility, the department shall notify the licensee that an evaluation will be conducted to determine whether prohibition of the person's licensure, employment, or residence is warranted.

3. In an evaluation, the department of human services shall consider the nature and seriousness of the crime or founded child or dependent adult abuse in relation to the position sought or held, the time elapsed since the commission of the crime or founded child or dependent adult abuse, the circumstances under which the crime or founded child or dependent adult abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the crime or founded child or dependent adult abuse again, and the number of crimes or founded child or dependent adult abuses committed by the person involved. The department of human services has final authority in determining whether prohibition of the person's licensure, employment, or residence is warranted.

4. If the department of human services determines that the person has committed a crime or has a record of founded child or dependent adult abuse which warrants prohibition of licensure, employment, or residence, the person shall not be licensed under this chapter and shall not be employed by a facility or reside in a facility licensed under this chapter.

Sec. 13. Section 135H.7, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 4. In addition to the record checks required under subsection 2, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of subsections 2 and 3, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random dependent adult abuse record check conducted under this subsection.

NEW SUBSECTION. 5. Beginning July 1, 1994, a licensee shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

NEW SUBSECTION. 6. On or after July 1, 1994, a licensee shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

Sec. 14. Section 237.8, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 3. In addition to the record checks required under subsection 2, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of subsection 2, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random check conducted under this subsection.

NEW SUBSECTION. 4. On or after July 1, 1994, a licensee shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

NEW SUBSECTION. 5. On or after July 1, 1994, a licensee shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

Sec. 15. Section 237A.5, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 3. In addition to the record checks required under subsection 2, the department of human services may conduct dependent adult abuse record checks in this state and may conduct these checks in other states, on a random basis. The provisions of subsection 2, relative to an evaluation following a determination that a person has been convicted of a crime or has a record of founded child abuse, shall also apply to a random dependent adult abuse record check conducted under this subsection.

NEW SUBSECTION. 4. On or after July 1, 1994, a licensee or registrant shall inform all new applicants for employment of the possibility of the performance of a record check and shall obtain, from the applicant, a signed acknowledgment of the receipt of the information.

NEW SUBSECTION. 5. On or after July 1, 1994, a licensee or registrant shall include the following inquiry in an application for employment: "Do you have a record of founded child or dependent adult abuse or have you ever been convicted of a crime, in this state or any other state?"

Sec. 16. Section 692.2, subsection 1, paragraph c, Code Supplement 1993, is amended to read as follows:

c. The department of human services for the purposes of section 135C.33, section 218.13, section 232.71, subsection 16, section 232.142, section 237.8, subsection 2, section 237A.5, section 237A.20, and section 600.8, subsections 1 and 2.

Sec. 17. Section 692.2, subsection 1, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. Health care facilities licensed pursuant to chapter 135C for the purposes of section 135C.33.

Sec. 18. Section 692.3, subsection 2, Code 1993, is amended to read as follows:

2. Notwithstanding subsection 1, paragraph "a", the department of human services may redisseminate criminal history data obtained pursuant to section 692.2, subsection 1, paragraph "c", to persons licensed, registered, or certified under chapters 135C, 237, 237A, 238 and 600 for the purposes of section 135C.33, section 237.8, subsection 2 and section 237A.5. A person who receives information pursuant to this subsection shall not use the information other than for purposes of section 135C.33, section 237.8, subsection 2, section 237A.5, or section 600.8, subsections 1 and 2. A person who receives criminal history data pursuant to this subsection who uses the information for purposes other than those permitted by this subsection or who communicates the information to another person except for the purposes permitted by this subsection is guilty of an aggravated misdemeanor.

Sec. 19. CHILD PROTECTION TASK FORCE. The legislative council is requested to establish a task force for the 1994 interim to review federal and state laws, regulations, and policies regarding child protection, including the central child abuse registry, and to make recommendations for changes in the child protection system. The task force members shall include legislators, individuals knowledgeable concerning child protection and prevention of child abuse, and other interested persons. The task force shall submit a report of its findings and recommendations to the general assembly on or before January 9, 1995. The department of human services shall seek federal or private funding for the costs of the task force.

Sec. 20. EFFECTIVE DATE. Section 9 of this Act takes effect July 1, 1995.

Approved April 28, 1994

CHAPTER 1131

SAFETY IN SCHOOLS

H.F. 2383

AN ACT relating to safety in schools.

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

Section 1. NEW SECTION. 256.11C CHARACTER EDUCATION POLICY — PILOT PROGRAM.

1. It is the policy of the general assembly that Iowa's schools be the best and safest possible. To that end, each school is encouraged to instill the highest character and academic excellence in each student, in close cooperation with the student's parents, and with input from the community and educators.

Schools should make every effort, formally and informally, to stress character qualities that will maintain a safe and orderly learning environment, and that will ultimately equip students to be model citizens. These qualities include but are not limited to honesty; responsibility; respect and care for the person and property of others; self-discipline; understanding of, respect for, and obedience to law and citizenship; courage, initiative, commitment, and perseverance; kindness, compassion, service, and loyalty; fairness, moderation, and patience; and the dignity and necessity of hard work.

The department of education shall assist schools in accessing financial and curricular resources to implement programs stressing these character qualities. Schools are encouraged to use their existing resources to implement programs stressing these qualities.

2. The department of education shall establish a character education pilot program to evaluate methods for incorporating positive character qualities into all levels of the existing educational program. Schools involved in the pilot program may use phase III funds in the establishment of the program.

3. The department of education shall report to the state board and to the general assembly regarding the success of any pilot programs prior to the completion of the third year of a program.

Sec. 2. Section 279.9, Code 1993, is amended to read as follows:

279.9 USE OF TOBACCO.

~~Such~~ The rules shall prohibit the use of tobacco and the use or possession of alcoholic liquor, wine, or beer or any controlled substance as defined in section 124.101, subsection 5, by any student of ~~such~~ the schools and the board may suspend or expel ~~any~~ a student for ~~any~~ a violation of ~~such~~ a rule under this section.

Sec. 3. NEW SECTION. 279.9A INFORMATION SHARING.

The rules referred to in section 279.9 shall provide that upon the request of school officials of a school to which the student seeks to transfer or has transferred, school officials of the sending school shall provide an accurate record of any suspension or expulsion actions taken, and the basis for those actions taken, against the student under sections 279.9, 280.19A, 282.3, 282.4, and 282.5. The designated representative shall disclose this information only to those school employees whose duties require them to be involved with the student. For purposes of this section, "school employees" means persons employed by a nonpublic school, school district, or any area education agency staff member who provides services to a school or school district.

Sec. 4. Section 280.19A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 22.7, subsection 1, records kept regarding a student who has participated in a program under this section shall be requested by school officials of a public or nonpublic receiving school in which the student seeks to enroll, and shall be provided by the sending school. A school official who receives information under this section shall disclose this information only to those school officials and employees whose duties require them to be involved with the student. A school official or employee who discloses information received under this section in violation of this paragraph shall be subject to disciplinary action, including but not limited to reprimand, suspension, or termination. "School officials and employees" means those officials and persons employed by a nonpublic school or public school district, and area education agency staff members who provide services to schools or school districts.

Sec. 5. Section 280.21, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. To prevail in a civil action alleging a violation of this section the party bringing the action shall prove the violation by clear and convincing evidence.

Sec. 6. NEW SECTION. 280.21A LEAVE – EPISODE OF VIOLENCE.

1. A school employee who, in the course of employment, suffers a personal injury causing temporary total disability, or a permanent partial or total disability, resulting from an episode of violence toward that employee, for which workers' compensation under chapter 85 is payable, shall be entitled to receive workers' compensation, which the district shall supplement in order for the employee to receive full salary and benefits for the shortest of the following periods:

a. One year from the date of the disability.

b. The period during which the employee is disabled and incapable of employment.

During the period described in paragraph "a" or "b", the school employee shall not be required to use accumulated sick leave or vacation.

2. The school district may require the employee, as a condition of receiving benefits under this section, to provide a signed statement that justifies the use of this leave and, if medical attention is required, a certificate from a licensed physician that states the nature and duration of the leave.

3. For purposes of this section, "school employee" means a person employed by a nonpublic school or school district, or any area education agency staff member who provides services to a school or school district.

Sec. 7. Section 282.4, Code 1993, is amended to read as follows:

282.4 EXPULSION – DISMISSAL.

The board may, by a majority vote, expel any pupil from school for a violation of the regulations or rules established by the board, or when the presence of the pupil is detrimental to

the best interests of the school; ~~and it~~. The board may confer upon any teacher, principal, or superintendent the power temporarily to dismiss a pupil, notice of such dismissal being at once given in writing to the president of the board.

A pupil who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to ratify the suspension or hold a disciplinary hearing to determine whether or not to order further sanctions against the pupil, which may include expelling the pupil. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and pupils from the pupil committing the assault.

A pupil shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.

Sec. 8. Section 282.18, subsection 16, Code Supplement 1993, is amended to read as follows:

16. If a pupil, for ~~which~~ whom a request to transfer has been filed with a district, has been suspended or expelled in the district, the ~~child~~ pupil shall not be permitted to transfer until the pupil has been reinstated in the sending district. Once the ~~child~~ pupil has been reinstated, however, the ~~child~~ pupil shall be permitted to transfer in the same manner as if the ~~child~~ pupil had not been suspended or expelled by the sending district. If a ~~child~~ pupil, for whom a request to transfer has been filed with a district, is expelled in the district, the ~~child~~ pupil shall be permitted to transfer to a receiving district under this section if the ~~child~~ pupil applies for and is reinstated in the sending district. However, if the ~~child~~ pupil applies for reinstatement but is not reinstated in the sending district, the receiving district may deny the request to transfer. The parent or guardian of the ~~child~~ pupil shall be permitted to appeal the decision of the receiving district to the director of the department of education. If the director rules in favor of permitting the transfer, the ~~child~~ pupil shall be permitted to transfer, but the transfer shall be conditioned upon the expiration of the expulsion period without the ~~student~~ pupil incurring a new violation.

Approved April 28, 1994

CHAPTER 1132

LICENSING OF ATHLETIC TRAINERS

H.F. 2387

AN ACT providing for licensing of athletic trainers, imposing fees, and providing a penalty.

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

Section 1. NEW SECTION. 152D.1 DEFINITIONS.

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

1. "Board" means the athletic trainer advisory board established pursuant to this chapter.
2. "Department" means the Iowa department of public health.
3. "Licensed athletic trainer" means a person licensed under this chapter.
4. "Practice of athletic training" means the prevention, physical evaluation, emergency care, and physical reconditioning relating to injuries and illnesses incurred through sports-induced trauma, which occurs during the preparation for or participation in a sports competition or during a physical training program, either of which is sponsored by an educational institution, amateur or professional athletic group, or other recognized organization, by a person who uses the title of licensed athletic trainer.

Sec. 2. NEW SECTION. 152D.2 LICENSING AND PRACTICE REQUIREMENTS.

A person shall not use the title of licensed athletic trainer as defined in this chapter without first obtaining a license pursuant to this chapter.

The practice of athletic training shall be carried out only under the supervision of a licensed physician.

The practice of physical reconditioning shall be carried out under the oral or written orders of a physician or physician assistant. A physician or physician assistant who issues a oral order must reduce the order to writing and provide a copy of the order to the athletic trainer within thirty days of the oral order.

Sec. 3. NEW SECTION. 152D.3 QUALIFICATIONS – PROCEDURES.

1. An applicant for an athletic trainer license must possess the following qualifications:

a. Graduation from an accredited college or university and compliance with the minimum athletic training curriculum requirements established by the department in consultation with the board.

b. Successful completion of an examination prepared or selected by the department in consultation with the board.

2. An out-of-state applicant for an athletic trainer license must fulfill the requirements of subsection 1, paragraph "a" or "b", and submit proof of active engagement as an athletic trainer in the other state.

3. Application and renewal procedures, fees, and reciprocal agreements shall be provided in accordance with this chapter.

Sec. 4. NEW SECTION. 152D.4 SCOPE OF CHAPTER.

The provisions of this chapter do not apply to any of the following:

1. Persons otherwise licensed to practice medicine and surgery, osteopathy, osteopathic medicine and surgery, optometry, occupational therapy, nursing, chiropractic, podiatry, dentistry, or physical therapy, or a licensed physician assistant.

2. Elementary or secondary school teachers, coaches, or authorized volunteers who do not hold themselves out to the public as athletic trainers.

3. Students of athletic training who practice athletic training under the supervision of a licensed athletic trainer in connection with the regular course of instruction at a school providing athletic training instruction.

Sec. 5. NEW SECTION. 152D.5 POWERS OF THE DEPARTMENT.

The department in consultation with the board shall:

1. Adopt rules consistent with this chapter and chapter 147 which are necessary for the performance of its duties.

2. Establish standards and guidelines for athletic trainers including minimum curriculum requirements.

3. Prepare and conduct an examination for applicants for a license.

4. Establish a system for the collection of licensure fees. The fees charged shall be sufficient to defray the costs of administering this chapter and all fees collected shall be deposited with the treasurer of state who shall deposit them in the general fund of the state.

Sec. 6. NEW SECTION. 152D.6 LICENSE SUSPENSION AND REVOCATION.

A license issued by the department under the provisions of this chapter may be suspended or revoked, or renewal denied by the department, for violation of any provision of this chapter or section 272C.10, or section 147.55, or rules adopted by the department.

Sec. 7. NEW SECTION. 152D.7 ADVISORY BOARD.

An athletic trainer advisory board is established to provide advice to the department regarding approval of continuing education programs and drafting of rules pursuant to section 152D.5.

The members of the advisory board shall include three licensed athletic trainers, three physicians licensed to practice medicine in all its branches, and one public member. Not more than a simple majority of the advisory board shall be of one gender. Members shall be appointed

by the governor, subject to confirmation by the senate, and shall serve three-year terms beginning and ending in accordance with section 69.19. Members shall be compensated for their actual and necessary expenses incurred in the performance of their duties. Expense moneys paid to the members shall be paid from funds appropriated to the department. Each member of the board may also be eligible to receive compensation as provided in section 7E.6.

Sec. 8. NEW SECTION. 152D.8 PENALTY.

A person who violates a provision of this chapter is guilty of a simple misdemeanor.

Sec. 9. Section 135.11, subsections 11 and 13, Code Supplement 1993, are amended to read as follows:

11. Enforce the law relative to chapter 146 and "Health-related Professions," title IV, subtitle 3, excluding chapters 152B, 152D, and 155.

13. Establish, publish, and enforce rules not inconsistent with law for the enforcement of the provisions of chapters 125, 152B, 152D, 155, and 435 and title IV, subtitle 2, excluding chapters 142B, 145B, and 146 and for the enforcement of the various laws, the administration and supervision of which are imposed upon the department.

Sec. 10. Section 147.1, unnumbered paragraph 1 and subsection 7, Code 1993, are amended to read as follows:

For the purpose of this and the following chapters of this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D:

7. "Licensed" or "certified" when applied to a physician and surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, psychologist or associate psychologist, chiropractor, nurse, dentist, dental hygienist, optometrist, speech pathologist, audiologist, pharmacist, physical therapist, occupational therapist, practitioner of cosmetology arts and sciences, practitioner of barbering, funeral director, dietitian, marital and family therapist, mental health counselor, or social worker means a person licensed under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D.

Sec. 11. Section 147.3, Code 1993, is amended to read as follows:

147.3 QUALIFICATIONS.

An applicant for a license to practice a profession under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, is not ineligible because of age, citizenship, sex, race, religion, marital status or national origin, although the application form may require citizenship information. A board may consider the past felony record of an applicant only if the felony conviction relates directly to the practice of the profession for which the applicant requests to be licensed. Character references may be required, but shall not be obtained from licensed members of the profession.

Sec. 12. Section 147.6, Code 1993, is amended to read as follows:

147.6 CERTIFICATE PRESUMPTIVE EVIDENCE.

Every license issued under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, shall be presumptive evidence of the right of the holder to practice in this state the profession therein specified.

Sec. 13. Section 147.7, Code 1993, is amended to read as follows:

147.7 DISPLAY OF LICENSE.

Every person licensed under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, to practice a profession shall keep the license publicly displayed in the primary place in which the person practices.

Sec. 14. Section 147.9, Code 1993, is amended to read as follows:

147.9 CHANGE OF RESIDENCE.

When any person licensed to practice a profession under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, changes a residence or place of practice the person shall notify the department.

Sec. 15. Section 147.12, unnumbered paragraph 1, Code 1993, is amended to read as follows:

For the purpose of giving examinations to applicants for licenses to practice the professions for which licenses are required by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, the governor shall appoint, subject to confirmation by the senate, a board of examiners for each of the professions. The board members shall not be required to be members of professional societies or associations composed of members of their professions.

Sec. 16. Section 147.30, Code 1993, is amended to read as follows:

147.30 TIME AND PLACE OF EXAMINATIONS.

The department shall give public notice of the time and place of all examinations to be held under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D. Such notice shall be given in such manner as the department may deem expedient and in ample time to allow all candidates to comply with the provisions of this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D.

Sec. 17. Section 147.34, Code 1993, is amended to read as follows:

147.34 EXAMINATIONS.

Examinations for each profession licensed under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, shall be conducted at least one time per year at such time as the department may fix in co-operation with each examining board. Examinations may be given at the state University of Iowa at the close of each school year for professions regulated by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, and examinations may be given at other schools located in the state at which any of the professions regulated by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, are taught. At least one session of each examining board shall be held annually at the seat of government and the locations of other sessions shall be determined by the examining board, unless otherwise ordered by the department. Applicants who fail to pass the examination once shall be allowed to take the examination at the next scheduled time. Thereafter, applicants shall be allowed to take the examination at the discretion of the board. Examinations may be given by an examining board which are prepared and scored by persons outside the state, and examining boards may contract for such services. An examining board may make an agreement with examining boards in other states for administering a uniform examination. An applicant who has failed an examination may request in writing information from the examining board concerning the examination grade and subject areas or questions which the applicant failed to answer correctly, except that if the examining board administers a uniform, standardized examination, the examining board shall only be required to provide the examination grade and such other information concerning the applicant's examination results which are available to the examining board.

Sec. 18. Section 147.41, subsection 2, Code 1993, is amended to read as follows:

2. The subjects to be covered by such examination and the subjects to be covered by the final examination to be taken by such applicant after the completion of the professional course and prior to the issuance of the license, but the subjects covered in the partial and final examinations shall be the same as those specified in this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, for the regular examination.

Sec. 19. Section 147.44, Code 1993, is amended to read as follows:

147.44 AGREEMENTS.

For the purpose of recognizing licenses which have been issued in other states to practice any profession for which a license is required by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, the department shall enter into a reciprocal agreement with every state which is certified to it by the proper examining board under the provisions of section 147.45 and with which this state does not have an existing agreement at the time of such certification.

Sec. 20. Section 147.46, subsection 1, Code 1993, is amended to read as follows:

1. Protection to licensees of this state. When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person licensed in this state to practice any profession regulated by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, which affects the right of said person to be licensed or to practice the person's profession in said state, then the same requirement or disability shall be placed upon any person licensed in said state when applying for a license to practice in this state.

Sec. 21. Section 147.52, Code 1993, is amended to read as follows:

147.52 RECIPROCITY.

When the laws of any state or the rules of the authorities of said state place any requirement or disability upon any person holding a diploma or certificate from any college in this state in which one of the professions regulated by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, is taught, which affects the right of said person to be licensed in said state, the same requirement or disability shall be placed upon any person holding a diploma from a similar college situated therein, when applying for a license to practice in this state.

Sec. 22. Section 147.72, Code 1993, is amended to read as follows:

147.72 PROFESSIONAL TITLES AND ABBREVIATIONS.

Any person licensed to practice a profession under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, may append to the person's name any recognized title or abbreviation, which the person is entitled to use, to designate the person's particular profession, but no other person shall assume or use such title or abbreviation, and no licensee shall advertise in such a manner as to lead the public to believe that the licensee is engaged in the practice of any other profession than the one which the licensee is licensed to practice.

Sec. 23. Section 147.73, subsection 1, Code 1993, is amended to read as follows:

1. As authorizing any person licensed to practice a profession under this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, to use or assume any degree or abbreviation of the same unless such degree has been conferred upon said person by an institution of learning accredited by the appropriate board herein created, together with the director of public health, or by some recognized state or national accredited agency.

Sec. 24. Section 147.83, Code 1993, is amended to read as follows:

147.83 INJUNCTION.

Any person engaging in any business or in the practice of any profession for which a license is required by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, without such license may be restrained by permanent injunction.

Sec. 25. Section 147.86, Code 1993, is amended to read as follows:

147.86 PENALTIES.

Any person violating any provision of this or the following chapters of this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, except insofar as the provisions apply or relate to or affect the practice of pharmacy, or where a specific penalty is not otherwise provided, shall be guilty of a serious misdemeanor.

Sec. 26. Section 147.87, Code 1993, is amended to read as follows:

147.87 ENFORCEMENT.

The department shall enforce the provisions of this and the following chapters of this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, and for that purpose may request the department of inspections and appeals to make necessary investigations. Every licensee and member of an examining board shall furnish the department or the department of inspections and appeals such evidence as the member or licensee may have relative to any alleged violation which is being investigated.

Sec. 27. Section 147.88, Code 1993, is amended to read as follows:

147.88 INSPECTIONS.

The department of inspections and appeals may perform inspections as required by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, except for the board of medical examiners, board of pharmacy examiners, board of nursing, and the board of dental examiners. The department of inspections and appeals shall employ personnel related to the inspection functions.

Sec. 28. Section 147.90, Code 1993, is amended to read as follows:

147.90 RULES AND FORMS.

The Iowa department of public health and the department of inspections and appeals shall each establish the necessary rules and forms for carrying out the duties imposed upon it by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D.

Sec. 29. Section 147.92, Code 1993, is amended to read as follows:

147.92 ATTORNEY GENERAL AND COUNTY ATTORNEY.

Upon request of the department the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this or the following chapters of this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, and the county attorney, at the request of the attorney general, shall appear and prosecute such action when brought in the county attorney's county.

Sec. 30. Section 147.93, Code 1993, is amended to read as follows:

147.93 PRIMA FACIE EVIDENCE.

The opening of an office or place of business for the practice of any profession for which a license is required by this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, the announcing to the public in any way the intention to practice any such profession, the use of any professional degree or designation, or of any sign, card, circular, device, or advertisement, as a practitioner of any such profession, or as a person skilled in the same, shall be prima-facie evidence of engaging in the practice of such profession.

Sec. 31. Section 147.111, Code Supplement 1993, is amended to read as follows:

147.111 REPORT OF TREATMENT OF WOUNDS AND OTHER INJURIES.

Any person licensed under the provisions of this subtitle, excluding chapters 152B, ~~and~~ 152C, and 152D, who shall administer any treatment to any person suffering 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, as defined in section 702.18, shall at once but not later than twelve hours thereafter, report that fact to the 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 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 of this section are concerned.

Sec. 32. Section 272C.1, subsection 6, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. bb. The Iowa department of public health in licensing athletic trainers pursuant to chapter 152D.

Sec. 33. TEMPORARY PROVISIONS. Any person actively engaged as an athletic trainer on the effective date of this Act shall be issued a temporary license if the person submits an application, pays the required license fee, and is determined to be actively engaged in the practice of athletic training by the department. These temporary licenses shall expire on July 1, 1999, and shall not be renewed.

Applications for a license under this section must be made within one hundred eighty days from the effective date of this Act. The governor shall determine if the initial appointees representing licensed athletic trainers would qualify for a license issued pursuant to section 152D.3.

Approved April 28, 1994

CHAPTER 1133

STATE TAX PROCEDURES, PRACTICES, AND PENALTIES
H.F. 2419

AN ACT relating to state tax procedures, practices, and penalties and providing effective and applicability date provisions.

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

Section 1. NEW SECTION. 421.60 TAX PROCEDURES AND PRACTICES.

1. SHORT TITLE. This section shall be known and may be cited as the "Tax Procedures and Practices Act".

2. PROCEDURES AND PRACTICES.

a. The department shall prepare a statement which sets forth in simple and nontechnical terms all of the following:

(1) The rights of a taxpayer and the obligations of the department during an audit.

(2) The procedures by which a taxpayer may appeal an adverse decision of the department, including administrative and judicial appeals.

(3) The procedures which the department may use in enforcing the tax laws, including notices of assessment and jeopardy assessment and the filing and enforcement of liens.

The statement prepared in accordance with this paragraph shall be distributed by the department to all taxpayers at the first contact by the department with respect to the determination or collection of any tax, except in the case of simply providing tax forms.

b. The department shall furnish to the taxpayer, before or at the time of issuing a notice of assessment or denial of a refund claim, an explanation of the reasons for the assessment or refund denial. An inadequate explanation shall not invalidate the notice. For purposes of this section, an explanation by the department shall be sufficient where the amount of tax, interest, and penalty is stated together with an attachment setting forth the computation of the tax by the department.

c. If the notice of assessment or denial of a claim for refund relates to a tax return filed pursuant to section 422.14 or chapter 450, 450A, or 451, by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to that return, or if a power of attorney has been filed with the department by the taxpayer which designates an individual as an authorized representative of the taxpayer with respect to any tax that is included in the notice of assessment or denial of a claim for refund, a copy of the notice together with any additional information required to be sent to the taxpayer shall be sent to the authorized representative as well.

If the department fails to mail a notice of assessment to the last known address of a taxpayer or fails to personally deliver such notice to a taxpayer, interest for the month such mailing or personal delivery fails to occur through the month of the correct mailing or personal delivery is waived.

If the department fails to mail a notice of assessment or denial of a claim for refund to the taxpayer's last known address or fails to personally deliver such notice to a taxpayer and, if applicable, to the taxpayer's authorized representative, the time period to appeal the notice of assessment or a denial of a claim for refund is suspended until the notice or claim denial is correctly mailed or personally delivered, or in any event, for a period not to exceed one year, whichever is the lesser period.

Collection activities, except where a jeopardy situation exists, shall be suspended and the statute of limitations for assessment or collection of the tax shall be tolled during the period in which interest is waived.

d. A taxpayer is permitted to designate in writing the type of tax and tax periods to which any voluntary payment relates, provided that separate written instructions accompany the payment. This paragraph does not apply to jeopardy assessments and does not apply if the department has to enforce collection of the payment.

e. Unless otherwise provided by law, all Iowa taxes which are administered by the department and which result in a refund shall accrue interest at the rate in effect under section 421.7 from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest.

f. A taxpayer may appeal a refund claim to the director if a claim for refund has been filed and not denied by the department within six months of the filing of the claim. The filing of an appeal by a taxpayer shall not affect the ability of the department to examine and inspect a taxpayer's records.

g. A taxpayer may request in writing that a contested case proceeding be commenced by the department after a period of six months from the filing of a proper appeal by the taxpayer. The department shall file an answer within thirty days of receipt of the request and a contested case proceeding shall be commenced. In the case of an appeal of an assessment, failure to answer within the thirty-day time period and after a request has been made, shall result in the suspension of interest from the time that the department was required to answer until the date that the department files its answer. In the case of an appeal of a denial of a refund, failure to answer within the thirty-day time period, and after a request has been made, shall result in the accrual of interest payable to the taxpayer at double the rate in effect under section 421.7 from the time the department was required to answer until the date that the department files its answer.

h. A taxpayer who has failed to appeal a notice of assessment to the department within the time provided by law may contest the assessment by paying the tax, interest, and penalty, which in the case of divisible taxes might not be the entire liability and by filing a refund claim within the time period provided for filing such claim. The filing of a refund claim allows the time period for which the refund is claimed to be open to examination and to be open to offset, to zero, based upon any issue associated with the type of tax for which the refund is claimed and which has not up to that time been resolved between the taxpayer and the department, irrespective of whether the period of limitations to issue a notice of assessment has expired. The department may make this offset at any time until the department grants or denies the refund.

i. The director may, at any time, abate any unpaid portion of assessed tax, interest, or penalties which the director determines is erroneous, illegal, or excessive. The director shall prepare quarterly reports summarizing each case in which abatement of tax, interest, or penalties was made. However, the report shall not disclose the identity of the taxpayer.

j. The director shall adopt rules for setting times and places for taxpayer interviews and to permit any taxpayer to record the interviews.

k. If the determination that a return is incorrect is the result of an audit of the books and records of the taxpayer, the tax or additional tax, if any, shall be assessed and the notice of assessment to the taxpayer shall be given by the department within one year after the completion of the examination of the books and records.

l. The department shall annually report to the general assembly all areas of recurrent taxpayer noncompliance with rules or guidelines issued by the department and shall make recommendations concerning the noncompliance in the report.

3. INSTALLMENT PAYMENTS. The department may permit the payment of a delinquent tax on a deferred basis where the equities indicate that a deferred payment agreement would be in the interest of the state and that without a deferred payment agreement the taxpayer would experience extreme financial hardship. A deferred payment agreement shall include applicable penalty and interest at the rate in effect under section 421.7 on the unpaid balance of the liability.

4. COSTS.

a. A prevailing taxpayer in an administrative hearing or a court proceeding related to the determination, collection, or refund of a tax, penalty, or interest may be awarded reasonable litigation costs by the department, state board of tax review, or a court, incurred subsequent to the issuance of the notice of assessment or denial of claim for refund in the proceeding, based upon the following:

(1) The reasonable expenses of expert witnesses.

(2) The reasonable costs of studies, reports, and tests.

(3) The reasonable fees of independent attorneys or independent accountants retained by the taxpayer.

(4) An award for reasonable litigation costs shall not exceed twenty-five thousand dollars per case.

b. An award under paragraph "a" shall not be made with respect to a portion of the proceedings during which the prevailing taxpayer has unreasonably protracted the proceedings.

c. For purposes of this section, "prevailing taxpayer" means a taxpayer who establishes that the position of the state was not substantially justified and who has substantially prevailed with respect to the amount in controversy or has substantially prevailed with respect to the most significant issue or set of issues presented. The determination of whether a taxpayer is a prevailing taxpayer is to be determined in accordance with chapter 17A.

d. An award for reasonable litigation costs shall be paid to the taxpayer from the general fund of the state. For purposes of this subsection, there is appropriated from the general fund of the state an amount sufficient to pay each taxpayer entitled to an award under this subsection.

e. This subsection does not apply to the tax imposed by chapter 453B if the department relied upon information provided or action conducted by federal, state, or local officials or law enforcement agencies.

5. DAMAGES. Notwithstanding section 669.14, subsection 2, if the director or an employee of the department recklessly or intentionally disregards any tax law or rule in the collection of any tax, or if the director or an employee of the department knowingly or negligently fails to release a lien against or bond on a taxpayer's property, the taxpayer may file a claim in accordance with the Iowa tort claims Act, chapter 669, for damages against the state. However, the damages shall be limited to the actual direct economic damages suffered by the taxpayer as a proximate result of the actions of the director or employee, plus costs, reduced by the amount of such damages and costs as could reasonably have been mitigated by the taxpayer. The Iowa tort claims Act shall be the exclusive remedy for recovering damages resulting from such actions. This subsection does not apply to the tax imposed by chapter 453B.

6. BURDEN OF PROOF. The burden of proof with respect to assessments or denial of refunds in contested case proceedings shall be allocated as follows:

a. With respect to the issue of fraud with intent to evade tax, the burden of proof is upon the department. The burden of proof must be carried by clear and convincing evidence.

b. In a case where the assessment was not made within six years after the return became due, excluding any extension of time for filing, the burden of proof shall be upon the department. However, the burden of proof shall be upon the taxpayer where the determination of the department is the result of the final disposition of a matter between the taxpayer and the internal revenue service or where the taxpayer and the department have signed a waiver of the statute of limitations.

c. In all other cases, the burden of proof shall be upon the taxpayer who challenges the assessment or refund denial, except that, with respect to any new matter or affirmative defense,

the burden of proof shall be upon the department. For purposes of this provision, "new matter" means an adjustment not set forth in the computation of the tax in the assessment or refund denial as distinguished from a new reason for the assessment or refund denial. "Affirmative defense" is one resting on facts not necessary to support the taxpayer's case.

7. EMPLOYEE EVALUATIONS. It is unlawful to base a performance evaluation for an employee of the department on the total amount of assessments issued by that employee.

8. REFUND OF UNTIMELY ASSESSED TAXES. Notwithstanding any other refund statute, if it appears that an amount of tax, penalty, or interest has been paid to the department after the expiration of the statute of limitations for the department to determine and assess or collect the amount of such tax due, then the amount paid shall be credited against another tax liability of the taxpayer which is outstanding, if the statute of limitations for assessment or collection of that other tax has not expired or the amount paid shall be refunded to the person or, with the person's approval, credited to tax to become due. An application for refund or credit under this subsection must be filed within one year of payment. This subsection shall not be construed to prohibit the department from offsetting the refund claim against any tax due, if the statute of limitations for that other tax has not expired.

9. NO APPLICABILITY TO REAL PROPERTY. The provisions of this section do not apply to the assessment and taxation of real property.

Sec. 2. Section 422.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Notice of assessment" means a notice by the department to a taxpayer advising the taxpayer of an assessment of tax due.

Sec. 3. Section 422.25, subsection 1, Code 1993, is amended to read as follows:

1. a. Within three years after the return is filed or within three years after the return became due, including any extensions of time for filing, whichever time is the later, the department shall examine ~~it~~ the return and determine the ~~correct amount of tax, and the amount determined by the department is the~~ tax. However, if the taxpayer omits from income an amount which will, under the Internal Revenue Code, extend the statute of limitations for assessment of federal tax to six years under the federal law, the period for examination and determination is six years. In addition to the applicable period of limitation for examination and determination, the department may make an examination and determination at any time within six months from the date of receipt by the department of written notice from the taxpayer of the final disposition of any matter between the taxpayer and the internal revenue service with respect to the particular tax year. In order to begin the running of the six-month period, the notice shall be in writing in any form sufficient to inform the department of the final disposition with respect to that year, and a copy of the federal document showing the final disposition or final federal adjustments shall be attached to the notice.

b. The period for examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. In lieu of the period of limitation for any prior year for which an overpayment of tax or an elimination or reduction of an underpayment of tax due for that prior year results from the carryback to that prior year of a net operating loss or net capital loss, the period is the period of limitation for the taxable year of the net operating loss or net capital loss which results in the carryback. ~~The burden of proof of additional tax owing under the six-year period, or unlimited period, is on the department.~~ If the tax found due is greater than the amount paid, the department shall compute the amount due, together with interest and penalties as provided in subsection 2, and shall ~~notify the taxpayer by~~ mail a notice of assessment to the taxpayer and, if applicable, to the taxpayer's authorized representative of the total, which shall be computed as a sum certain if paid on or before the last day of the month in which the notice is postmarked, or on or before the last day of the following month if the notice is postmarked after the twentieth day of any month. The notice shall also inform the taxpayer of the additional interest and penalty which will be added to the total due if not paid on or before the last day of the applicable month.

Sec. 4. Section 422.25, subsection 4, Code 1993, is amended to read as follows:

4. All payments received must be credited first, to the penalty and interest accrued, and then to the tax due. For purposes of this subsection, the department shall not reapply prior payments made by the taxpayer to penalty or interest determined to be due after the date of those prior payments, except that the taxpayer and the department may agree to apply payments in accordance with rules adopted by the director when there are both agreed and unagreed to items as a result of an examination.

Sec. 5. Section 422.28, Code 1993, is amended to read as follows:

422.28 REVISION OF TAX.

A taxpayer may appeal to the director for revision of the tax, interest, or penalties assessed at any time within sixty days from the date of the notice of the assessment of tax, additional tax, interest, or penalties. The director shall grant a hearing and if, upon the hearing, the director determines that the tax, interest, or penalties are excessive or incorrect, the director shall revise them according to the law and the facts and adjust the computation of the tax, interest, or penalties accordingly. The director shall notify the taxpayer by mail of the result of the hearing and shall refund to the taxpayer the amount, if any, paid in excess of the tax, interest, or penalties found by the director to be due, with interest after sixty days from the date of payment by the taxpayer at the rate in effect under section 421.7 for each month or a fraction of a month. ~~The director may, on the director's own motion at any time, abate any portion of tax, interest or penalties which the director determines is excessive in amount, or erroneously or illegally assessed. The director shall prepare quarterly reports, which shall be included in the annual statistical reports required under section 422.75, summarizing each case in which an abatement of tax, interest or penalties was made under this section, but a report shall not disclose the identity of the taxpayer.~~

Sec. 6. Section 422.29, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. For cause and upon a showing by the director that collection of the tax in dispute is in doubt, the court may order the petitioner to file with the clerk a bond for the use of the respondent, with sureties approved by the clerk, in the amount of tax appealed from, conditioned that the petitioner shall perform the orders of the court.

Sec. 7. Section 422.54, subsections 1 and 2, Code 1993, are amended to read as follows:

1. As soon as practicable after a return is filed and in any event within five years after the return is filed, the department shall examine it, assess and determine the tax due if the return is found to be incorrect, and give notice to the taxpayer of ~~such~~ the assessment and determination as provided in subsection 2. The period for the examination and determination of the correct amount of tax is unlimited in the case of a false or fraudulent return made with the intent to evade tax or in the case of a failure to file a return. ~~If the determination that a return is incorrect is the result of an audit of the books and records of the taxpayer, the tax, or additional tax, if any is found due, shall be assessed and determined and the notice to the taxpayer shall be given by the department within one year after the completion of the examination of the books and records.~~

2. If a return required by this division is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the same is required by notice from the department, the department shall determine the amount of tax due from ~~such~~ information as the department may be able to obtain and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by the person, stock on hand, or other factors. The department shall give notice of ~~such~~ the determination to the person liable for the tax. ~~Such~~ The determination shall ~~finally and irrevocably~~ fix the tax unless the person against whom it is assessed shall, within ~~thirty~~ sixty days after the giving of notice of ~~such~~ the determination, apply to the director for a hearing or unless the ~~director on the director's motion shall reduce the same~~ taxpayer contests the determination by paying the tax, interest, and penalty and timely filing

a claim for refund. At ~~such~~ the hearing evidence may be offered to support ~~such~~ the determination or to prove that it is incorrect. After ~~such~~ the hearing the director shall give notice of the decision to the person liable for the tax.

Sec. 8. Section 424.10, subsection 2, Code 1993, is amended to read as follows:

2. If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the maker fails to file a corrected or sufficient return within twenty days after the return is required by notice from the department, the department shall determine the amount of charge due from ~~such~~ information as the department may be able to obtain and, if necessary, may estimate the charge on the basis of external indices or factors. The department shall give notice of ~~such~~ the determination to the person liable for the charge. ~~Such~~ The determination shall ~~finally and irrevocably~~ fix the charge unless the person against whom it is assessed shall, within ~~thirty~~ sixty days after the giving of notice of ~~such~~ the determination, apply to the director for a hearing or unless the ~~director on the director's motion shall reduce the charge~~ taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At ~~such~~ the hearing evidence may be offered to support ~~such~~ the determination or to prove that it is incorrect. After ~~such~~ the hearing the director shall give notice of the decision to the person liable for the charge.

If a depositor's, receiver's, or other person's challenge relates to the diminution rate, the burden of proof upon the challenger shall only be satisfied by clear and convincing evidence.

Sec. 9. Section 429.2, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

429.2 APPEAL.

1. Notwithstanding the provisions of chapter 17A, the taxpayer shall have thirty days from the date of postmark of the notice of assessment to appeal the assessment to the state board of tax review. Thereafter, the proceedings before the state board of tax review shall conform to the provisions of subsection 2, section 421.1, subsection 4, and chapter 17A.

2. The following rules shall apply to the appeal proceedings in addition to those stated in section 421.1, subsection 4, and chapter 17A.

a. The department's assessment shall be presumed correct and the burden of proof shall be on the taxpayer with respect to all issues raised on appeal, including any challenge of the director's valuation.

b. The burden of proof must be carried by a preponderance of the evidence.

c. The board shall consider all evidence and witnesses offered by the taxpayer and the department, including, but not limited to, evidence relating to the proper valuation of the property involved.

d. The board shall make an independent determination of the value of the property based solely upon its review of the evidence presented.

e. Upon the request of a party the board shall set the case for hearing within one year of the date of the request, unless for good cause shown, by application and ruling thereon after notice and not ex parte, the hearing date is continued by the board.

Sec. 10. Section 429.3, Code 1993, is amended to read as follows:

429.3 JUDICIAL REVIEW.

Judicial review of the action of the state board of tax review may be sought by the taxpayer or the director of revenue and finance in accordance with the terms of chapter 17A.

Sec. 11. Section 450.94, subsection 3, Code 1993, is amended to read as follows:

3. If the amount paid is greater than the correct tax, penalty, and interest due, the department shall refund the excess with interest. Interest shall be computed at the rate in effect under section 421.7, under the rules prescribed by the director counting each fraction of a month as an entire month and the interest shall begin to accrue on the first day of the second calendar month following the date of payment or on the date the return was due to be filed or was filed, whichever is the latest. However, the director shall not allow a claim for refund or credit

that has not been filed with the department within three years after the tax payment upon which a refund or credit is claimed became due, or one year after the tax payment was made, whichever time is later. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final unless the person aggrieved by the determination appeals to the director for a revision of the determination within ~~thirty~~ sixty days from the postmark date of the notice of determination of tax, penalty, and interest due or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing, and upon the hearing the director shall determine the correct tax, penalty, and interest or refund due, and notify the appellant of the decision by mail. The decision of the director is final unless the appellant seeks judicial review of the director's decision under section 450.59 within sixty days after the postmark date of the notice of the director's decision.

Sec. 12. Section 452A.64, Code 1993, is amended to read as follows:

452A.64 FAILURE TO FILE RETURN — INCORRECT RETURN.

If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient and the filer fails to file a corrected or sufficient return within twenty days after the same is required by notice from the appropriate state agency, the appropriate state agency shall determine the amount of tax due. The determination shall be made from all information that the appropriate state agency may be able to obtain and, if necessary, the agency may estimate the tax on the basis of external indices. The appropriate state agency shall give notice of the determination to the person liable for the tax. The determination shall ~~finally and irrevocably~~ fix the tax unless the person against whom it is assessed shall, within ~~thirty~~ sixty days after the giving of notice of ~~such~~ the determination, apply to the director of the appropriate state agency for a hearing or unless the ~~director reduces the assessment~~ taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. At the hearing, evidence may be offered to support the determination or to prove that it is incorrect. After the hearing, the director shall give notice of the decision to the person liable for the tax. The findings of the appropriate state agency as to the amount of fuel taxes, penalties and interest due from any person shall be presumed to be the correct amount and in any litigation which may follow, the certificate of the agency shall be admitted in evidence, shall constitute a prima-facie case and shall impose upon the other party the burden of showing any error in the findings and the extent thereof or that the finding was contrary to law.

~~The director may, on the director's own motion at any time, abate any portion of tax, interest or penalties which are determined to be excessive in amount or erroneously or illegally assessed.~~

Sec. 13. Section 453A.29, Code 1993, is amended to read as follows:

453A.29 NOTICE AND APPEAL.

The department shall notify any person assessed pursuant to section 453A.28 by sending a written notice of the determination ~~and assessment~~ by mail to the principal place of business of the person as shown on the person's application for permit, and if ~~no~~ an application was not filed by the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final, unless the person aggrieved by the determination appeals to the director for a revision of the determination within ~~thirty~~ sixty days from the postmark date of the notice of determination of tax, penalty, and interest or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by mail. Judicial review of action of the director may be sought in accordance with the Iowa administrative procedure Act and section 422.29.

Sec. 14. Section 453A.46, subsection 4, Code 1993, is amended to read as follows:

4. The department shall notify any person assessed pursuant to this section by sending a written notice of the determination ~~and assessment~~ by mail to the principal place of business

of the person as shown on the person's application for permit, and if an application was not filed by the person, to the person's last known address. A determination by the department of the amount of tax, penalty, and interest due, or the amount of refund for excess tax paid, is final, unless the person aggrieved by the determination appeals to the director for a revision of the determination within ~~thirty~~ sixty days from the postmark date of the notice of determination of tax, penalty, and interest or refund owing or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. The director shall grant a hearing and upon the hearing, the director shall determine the correct tax, penalty, and interest or refund due and notify the appellant of the decision by mail. Judicial review of action of the director may be sought in accordance with chapter 17A and section 422.29.

Sec. 15. Section 453A.48, subsection 5, Code 1993, is amended to read as follows:

5. Any person aggrieved by an order of the director fixing a tax, penalty or interest under section 453A.43 may, within ~~thirty~~ sixty days from the date of notice of the order, appeal to the board of review in the manner provided by law or unless the taxpayer contests the determination by paying the tax, interest, and penalty and timely filing a claim for refund. Judicial review of any other action of the director may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 16. EFFECTIVE DATES.

1. Section 1, subsection 2, paragraph "a", of this Act is effective for contacts made by the department on or after January 1, 1995.

2. Section 1, subsection 2, paragraphs "b" and "c", and section 1, subsections 4 and 6, of this Act are effective for notices of assessment or refund denials issued on or after January 1, 1995.

3. Section 1, subsection 2, paragraphs "h", "i", and "k", and subsection 8, and sections 2, 3, 5, and 7 through 15 of this Act are effective for notices of assessment issued on or after January 1, 1995.

4. Section 1, subsection 2, paragraph "d", of this Act is effective for designations made on or after January 1, 1995.

5. Section 1, subsection 2, paragraph "e", of this Act is effective to accrue interest on or after January 1, 1995.

6. Section 1, subsection 2, paragraph "f", of this Act is effective for refund claims filed on or after January 1, 1995.

7. Section 1, subsection 2, paragraph "g", of this Act is effective for appeals filed on or after January 1, 1995.

8. Section 1, subsection 2, paragraph "j", of this Act is effective for taxpayer interviews conducted on or after January 1, 1995.

9. Section 1, subsection 2, paragraph "l", of this Act is effective for annual reports for fiscal years ending June 30, 1995, and thereafter.

10. Section 1, subsection 3, of this Act is effective for deferred payment agreements made on or after January 1, 1995.

11. Section 1, subsection 5, of this Act is effective for actions of the director or a department employee that occur on or after January 1, 1995.

12. Section 1, subsection 7, of this Act is effective for evaluations made on or after January 1, 1995.

13. Section 1, subsection 9, of this Act is effective on January 1, 1995.

14. Section 4 of this Act is effective for payments made on or after January 1, 1995.

15. Section 6 of this Act is effective for petitions for judicial review filed on or after January 1, 1995.

Approved April 28, 1994

CHAPTER 1134

PRESCRIPTIONS BY CERTAIN REGISTERED NURSES

S.F. 2053

AN ACT relating to the regulation of prescribing of drugs by certain registered nurses, and making penalties applicable.

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

Section 1. Section 147.107, subsection 9, Code 1993, is amended to read as follows:

9. Notwithstanding subsection 1, but subject to the limitations contained in subsections 2 and 3, a registered nurse who is licensed and registered as an advanced registered nurse practitioner and who qualifies for and is registered in a recognized nursing specialty, ~~other than the specialty of nurse anesthetist,~~ may prescribe substances or devices, ~~that are not~~ including controlled substances or devices, if the nurse is engaged in the practice of a nursing specialty, ~~other than that of nurse anesthetist, for which the use of prescription medications and devices is recognized by the board of medical examiners and the board of nursing and the use of the medications and devices is~~ regulated under rules ~~accepted by the board of medical examiners and~~ adopted by the board of nursing in consultation with the board of medical examiners and the board of pharmacy examiners.

Approved May 2, 1994

CHAPTER 1135

COUNTY HOSPITALS

S.F. 2060

AN ACT relating to county hospital provisions involving the pecuniary interest of a county hospital trustee and establishing procedures for a memorial hospital or county hospital supported by revenue to become a county hospital supported by a tax levy.

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

Section 1. Section 347.15, Code 1993, is amended to read as follows:

347.15 PECUNIARY INTEREST PROHIBITED.

~~No~~ A trustee shall not have, directly or indirectly, any pecuniary interest in the purchase or sale of any commodities or supplies procured for or disposed of by ~~said~~ a county hospital. This section does not apply to a purchase or sale of commodities or supplies which benefits a trustee if the benefit to the trustee does not exceed one thousand five hundred dollars in a fiscal year or to a purchase or sale made by a trustee of the board of hospital trustees through competitive bid which is issued in written form and is publicly invited and opened.

Sec. 2. NEW SECTION. 347.23A MEMORIAL HOSPITAL OR COUNTY HOSPITAL PAYABLE FROM REVENUE BONDS CHANGED TO COUNTY HOSPITAL.

1. A hospital established as a memorial hospital under chapter 37 or a county hospital supported by revenue bonds and organized under chapter 347A may become, in accordance with the provisions of this section, a county hospital organized and managed as provided for in this chapter. If the hospital is established by a city as a memorial hospital, the city must be located in the county which will own and manage the hospital. A proposition for the change must be submitted to and approved by a majority of the electors of the county which will own and manage the hospital as provided for in this chapter. In addition, if the hospital is a memorial hospital organized by a city under chapter 37, the proposition must also be approved by a majority

of the electors of that city. The proposition may be submitted to the electors at any general or special election called by the county board of supervisors for this purpose.

2. The proposition shall be placed upon the ballot by the board of supervisors if requested by the hospital's board of trustees or governing commission and the request is endorsed by a petition for this purpose signed by qualified electors of the county equal in number to five percent of the votes cast for president of the United States or governor, as the case may be, at the last general election. Upon the approval of the proposition the hospital, its assets and liabilities, shall become the property of the county and this chapter shall govern its future management.

a. The question for a memorial hospital established by a city under chapter 37 shall be submitted in substantially the following form: "Shall the ..... hospital of ....., Iowa, be transferred to and become the property of, and be managed by the county of ....., Iowa under provision of chapter 347 of the Code of Iowa?"

b. The question for a memorial hospital established by a county under chapter 37 or a county hospital supported by revenue bonds and organized under chapter 347A shall be submitted in substantially the following form: "Shall the ..... hospital of ....., Iowa, organized and governed under chapter ..... of the Code of Iowa be changed to be established and governed under chapter 347 of the Code of Iowa?"

3. For the purpose of computing whether or not the proposition is carried, if the hospital is a memorial hospital established by a city under the provisions of chapter 37, the votes of the residents of that city shall be counted both for the purpose of ascertaining whether or not the proposition is carried within the city and also for the purpose of ascertaining whether or not the proposition is carried within the county.

Approved May 2, 1994

CHAPTER 1136

ELECTRIC TRANSMISSION LINE FRANCHISES

S.F. 2157

AN ACT relating to electric transmission line franchises.

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

Section 1. Section 478.1, Code 1993, is amended to read as follows:

478.1 FRANCHISE.

A person shall not construct, erect, maintain, or operate a transmission line, wire, or cable which ~~operates~~ is capable of operating at an electric voltage of thirty-four and one-half kilovolts or more along, over, or across any public highway or grounds outside of cities for the transmission, distribution, or sale of electric current, without first procuring from the utilities board within the utilities division of the department of commerce a franchise granting authority as provided in this chapter. However, a franchise shall not be required for electric lines constructed entirely within the boundaries of property owned by a person primarily engaged in the transmission or distribution of electric power or entirely within the boundaries of property owned by the end user of the electric power.

If the transmission line, wire, or cable ~~operates~~ is capable of operating only at an electric voltage of less than thirty-four and one-half kilovolts, no franchise is required. However, the utilities board shall retain jurisdiction over all such lines, wires or cables and shall prescribe the contents of a written notice and map to be timely provided to the board and affected parties including owners of electric supply lines located within six-tenths of one mile of proposed

construction of such lines, wires or cables. A person who seeks to construct, erect, maintain or operate a transmission line, wire or cable which will operate at an electric voltage of less than thirty-four and one-half kilovolts outside of cities and which cannot secure the necessary voluntary easements to do so may petition the board pursuant to section 478.3, subsection 1 for a franchise granting authority for such construction, erection, maintenance or operation, and for the use of the right of eminent domain.

Sec. 2. Section 478.2, unnumbered paragraph 4, Code 1993, is amended to read as follows:

The person, company, or corporation seeking the franchise for a new transmission line shall give notice of the informational meeting to each person, company, or corporation determined to be the landowner affected by the proposed project and any person, company or corporation in possession of or residing on the property. For the purposes of this section, "landowner" means a person, company, or corporation listed on the tax assessment rolls as responsible for the payment of real estate taxes imposed on the property and "transmission line" means any line ~~carrying~~ capable of operating at thirty-four ~~point five~~ and one-half kilovolts or more and extending a distance of not less than one mile across privately owned real estate.

Sec. 3. Section 478.3, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Petitions for transmission lines ~~carrying~~ capable of operating at thirty-four ~~point five~~ and one-half kilovolts or more and extending a distance of not less than one mile across privately owned real estate shall also set forth an allegation that the proposed construction represents a reasonable relationship to an overall plan of transmitting electricity in the public interest and substantiation of such allegations, including but not limited to, a showing of the following:

Sec. 4. Section 478.13, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. An extension of a franchise is not required for an electric transmission line which has been permanently retired from operation at thirty-four and one-half kilovolts or more but which remains in service at a lower voltage. The board shall be notified of changes in operating status.

Sec. 5. Section 478.21, Code 1993, is amended to read as follows:

478.21 NONUSER.

~~Unless~~ If the improvement for which a franchise is granted is not constructed in whole or in part within two years from the ~~granting thereof, it~~ date the franchise is granted, the franchise shall be forfeited and the utilities board which granted the franchise shall ~~cancel and~~ revoke the ~~same~~ franchise and make a record ~~thereof~~ of the revocation, unless the person holding the franchise petitions the board for an extension of time. Upon a showing of sufficient justification for the delay of construction, the board may grant an extension of time for not more than an additional two years. An extension of time shall only be allowed for franchises granted on or after July 1, 1994.

Approved May 2, 1994

CHAPTER 1137

WATER DISTRICTS

S.F. 2186

AN ACT relating to water districts by authorizing a city to grant a franchise to a rural water district to qualify for federal funding, by authorizing a franchise for sewer services, and by providing for membership in a federated association.

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

Section 1. NEW SECTION. 357A.23 CITY SEWER AND WATER FRANCHISE AUTHORIZED.

Notwithstanding section 364.2, subsection 4, paragraph "a", for the purposes of obtaining or qualifying for federal funding, a city may grant a franchise to a rural water district incorporated under this chapter or chapter 504A, for a term of not more than forty years. In addition to the franchises listed in section 364.2, subsection 4, paragraph "a", a city may grant a franchise to a rural water district incorporated under this chapter or chapter 504A, to erect, maintain, and operate plants and systems for sewer services. All provisions of section 364.2 shall otherwise apply to a franchise granted to a rural water district.

Sec. 2. Section 499.5A, Code 1993, is amended to read as follows:

499.5A WATER UTILITIES — MEMBERS OF FEDERATED ASSOCIATIONS.

Notwithstanding section 499.13, a water utility organized under this chapter, ~~and~~ a municipal water utility, or a water district organized under chapter 357, 357A, or 504A may be a member of a federated association.

Approved May 2, 1994

CHAPTER 1138

COUNTY RECORDER — DOCUMENT MANAGEMENT FEE

S.F. 2226

AN ACT relating to the collection of a document management fee by the county recorder on each recorded transaction.

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

Section 1. Section 331.605A, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

The recorder shall also collect a fee of one dollar for each recorded ~~instrument~~ transaction 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~~ section 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.

Approved May 2, 1994

CHAPTER 1139

FUNERAL PROCESSIONS
S.F. 2268

AN ACT relating to funeral processions.

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

Section 1. NEW SECTION. 321.324A FUNERAL PROCESSIONS.

1. For purposes of this section, "funeral procession" means a procession of motor vehicles accompanying the body of a deceased person during daylight hours which is being escorted by a vehicle continually displaying its emergency signal lamps flashing simultaneously and using lighted head lamps and identifying flags, and keeping all other motor vehicles with lighted head lamps in close formation.

2. Upon the immediate approach of a funeral procession, the driver of every other vehicle, except an authorized emergency vehicle, shall yield the right-of-way. An operator of a motor vehicle which is part of a funeral procession shall not be charged with violating traffic rules and regulations relating to traffic signals and devices while participating in the procession unless the operation is reckless.

3. The funeral home in charge of the funeral procession is liable only in connection with the procession for any negligent, reckless, or intentional act by the funeral home or any employee or agent of the funeral home that results in any death, personal injury or property damage suffered during a funeral procession.

Approved May 2, 1994

CHAPTER 1140

INVESTMENT AUTHORITY OF STATE BANKS
S.F. 2273

AN ACT relating to the investment authority of state banks.

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

Section 1. Section 524.901, subsection 3, paragraph j, Code 1993, is amended to read as follows:

j. Shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, whose portfolios contain investments which are subject to limitations pursuant to this section, provided that a state bank's investment in such shares does not exceed the limitation set forth in this section for the underlying instrument.

Sec. 2. Section 524.901, subsection 3, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. n. Shares or units of investment companies or investment trusts registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a, the portfolio of which is limited to the United States obligations described in subsection 1 or repurchase agreements fully collateralized by United States obligations described in subsection 1 if delivery of the collateral is taken either directly or through an authorized custodian and the dollar-weighted average maturity of the portfolio is not more than five years.

Approved May 2, 1994

CHAPTER 1141

SCHOOL PHYSICAL PLANT AND EQUIPMENT LEVY
H.F. 2049

AN ACT relating to the use of moneys from the physical plant and equipment levy to purchase exterior lighting, equipment and technology systems.

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

Section 1. Section 298.3, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. "Improvement of grounds" includes grading, landscaping, paving, seeding, and planting of shrubs and trees; constructing sidewalks, roadways, retaining walls, sewers and storm drains, and installing hydrants; surfacing and soil treatment of athletic fields and tennis courts; exterior lighting, including athletic fields and tennis courts; furnishing and installing flagpoles, gateways, fences, and underground storage tanks which are not parts of building service systems; demolition work; and special assessments against the school district for public improvements, as defined in section 384.37.

Sec. 2. Section 298.3, subsection 3, Code 1993, is amended to read as follows:

3. The purchase of buildings and the purchase of a single unit of equipment or a technology system exceeding ~~five~~ one thousand five hundred dollars in value.

Approved May 2, 1994

CHAPTER 1142

CORRECTIONS — RESTITUTION — MISCELLANEOUS PROVISIONS
H.F. 2352

AN ACT relating to criminal offenders and the department of corrections, by making changes regarding payment of restitution by offenders and payments under the crime victim compensation program, making changes in specifications relating to corrections institutions in which offenders are housed, establishing an inmate tort claim fund, deleting requirements relating to inmate visits by the director of the department of corrections, and permitting the release of certain information regarding offenders by the department.

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

Section 1. Section 421.17, subsection 25, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

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~~ as defined and ordered under sections 910.1 and 910.2 incurred as a result of services provided under chapters 13B and 815, and section 232.141. The procedure shall meet the following conditions:

Sec. 2. Section 602.8107, subsections 1 and 2, Code Supplement 1993, are amended to read as follows:

1. ~~Fines, penalties, court costs, fees, interest, restitution for court-appointed attorney fees, and surcharges~~ Restitution as defined in section 910.1 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. If the clerk receives payment from a person who is an inmate of a state institution or who is under the supervision of a judicial district department of correctional services, the payment shall be applied to the balance owed under the identified case number of the case which has resulted in the placement of the person in a state institution or under the supervision of the judicial district department of correctional services. If a case number is not identified, the clerk shall apply the payment to the balance owed in the criminal case with the oldest judgment against the person. 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.~~ Pecuniary damages as defined in section 910.1, subsection 2.

b. ~~Victim restitution.~~ Fines or penalties and criminal penalty surcharges.

c. ~~Court costs.~~ Crime victim compensation program reimbursement.

d. ~~Court appointed~~ Court costs, court-appointed attorney fees, or public defender expenses.

Sec. 3. Section 602.8107, subsection 5, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

This subsection does not apply to amounts collected for victim restitution, the ~~new~~ victim ~~restitution~~ compensation fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

Sec. 4. Section 714.7A, Code 1993, is amended to read as follows:

714.7A VETERANS' GRAVE MARKERS.

A person commits a simple misdemeanor when the person takes possession or control of a veteran's grave marker which was provided pursuant to section 35B.16, with the intention to deprive the owner of the marker, regardless of the value of the marker. The person shall also be liable for ~~restitution~~ reimbursement in an amount equal to three times the cost of the marker to be paid to the county commission of veteran affairs or other person who furnished the marker.

Sec. 5. Section 714.16, subsection 7, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A civil action pursuant to this section shall be by equitable proceedings. If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys or property, real or personal, which have been acquired by means of a practice declared to be unlawful by this section, including the appointment of a receiver in cases of substantial and willful violation of this section. If a person has acquired moneys or property by any means declared to be unlawful by this section and if the cost of administering ~~restitution~~ reimbursement outweighs the benefit to consumers or consumers entitled to the ~~restitution~~ reimbursement cannot be located through reasonable efforts, the court may order disgorgement of moneys or property acquired by the person by awarding the moneys or property to the state to be used by the attorney general for the administration and implementation of this section. Except in an action for the concealment, suppression, or omission of a material fact with intent that others rely upon it, it is not necessary in an action for ~~restitution~~ reimbursement or an injunction, to allege or to prove reliance, damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth. A claim for ~~restitution~~

reimbursement may be proved by any competent evidence, including evidence that would be appropriate in a class action.

Sec. 6. Section 714.16A, subsection 1, unnumbered paragraph 2, Code 1993, is amended to read as follows:

A civil penalty imposed pursuant to this section shall be paid to the treasurer of state, who shall deposit the money in the elderly victim fund, a separate fund created in the state treasury and administered by the attorney general for the investigation and prosecution of frauds against the elderly. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state. An award of ~~restitution~~ reimbursement pursuant to section 714.16 has priority over a civil penalty imposed by the court pursuant to this subsection.

Sec. 7. Section 904.311, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. There is established in the office of the director an inmate tort claim fund. This fund shall be used to reimburse inmates for the damage or loss of personal property caused by the department. Reimbursement for a single loss may be up to one hundred dollars. Section 8.33 notwithstanding, moneys in the fund shall not revert but shall remain in the fund. The fund shall be replenished from the general appropriation to the institutions as necessary to meet the obligations of the fund.

NEW UNNUMBERED PARAGRAPH. Tort claims denied at the institution shall be forwarded to the state appeal board for its consideration as if originally filed with that body. This procedure shall be used in lieu of the procedure in chapter 669 for inmate tort claims of less than one hundred dollars.

Sec. 8. Section 904.401, unnumbered paragraph 2, Code 1993, is amended by striking the unnumbered paragraph.

Sec. 9. Section 904.602, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The following information regarding individuals receiving or who have received services from the department or from the judicial district departments of correctional services under chapter 905 is public information and may be given to anyone~~, except that the information shall be limited to the offense for which an individual was last convicted~~:

Sec. 10. Section 904.602, subsection 2, unnumbered paragraph 1 and paragraph a, Code 1993, are amended to read as follows:

The following information regarding individuals receiving or who have received services from the department or from the judicial district departments of correctional services under chapter 905 is confidential and shall not be disseminated by the department to the public:

a. Home street address of the individual receiving or who has received services or that individual's family.

Sec. 11. Section 904.603, Code 1993, is amended to read as follows:

904.603 ACTION FOR DAMAGES.

A person receiving or who has received services, or that person's family, victim or employer may institute a civil action for damages under chapter 669 or other action to restrain the release of confidential records set out in section 904.602, subsection 2, which is in violation of that section, and a person, agency or governmental body proven to have released confidential records in violation of section 904.602, subsection 2 is liable for actual damages for each violation and is liable for court costs and reasonable attorney's fees incurred by the party bringing the action.

Sec. 12. Section 904.905, subsections 1 through 4, Code 1993, are amended to read as follows:

1. An amount ~~determined to be the cost to the judicial district department of correctional services for providing food, lodging and clothing for~~ the inmate ~~while under the program~~ may

be legally obligated to pay for the support of the inmate's dependents, the amount of which shall be paid to the dependents through the department of human services located in the county or city in which the dependents reside.

2. ~~The actual and necessary food, travel and other expenses of the inmate when released from actual confinement under the program.~~ Restitution as ordered by the court pursuant to chapter 910.

3. ~~An amount the inmate may be legally obligated to pay for the support of the inmate's dependents, the amount of which shall be paid to the dependents through the local department of human services in the county or city in which the dependents reside.~~ An amount determined to be the cost to the judicial district department of correctional services for providing food, lodging, and clothing for the inmate while under the program.

4. ~~Restitution as ordered by the court pursuant to chapter 910.~~ Any other financial obligations which are acknowledged by the inmate or any unsatisfied judgment against the inmate.

Sec. 13. Section 905.12, subsections 2 and 3, Code 1993, are amended to read as follows:

2. Restitution ordered by the court under chapter 910.

3. An amount determined to be the cost to the judicial district department of correctional services for food, lodging, and other expenses incurred by or on behalf of the resident.

~~3. Restitution ordered by the court under chapter 910.~~

Sec. 14. Section 909.6, Code Supplement 1993, is amended to read as follows:

909.6 FINE AS JUDGMENT — ~~INTEREST ASSESSED~~.

Whenever a court has imposed a fine on any defendant, the judgment in such case shall state the amount of the fine, and shall have the force and effect of a judgment against the defendant for the amount of the fine. The law relating to judgment liens, executions, and other process available to creditors for the collection of debts shall be applicable to such judgments; provided, that no law exempting the personal property of the defendant from any lien or legal process shall be applicable to such judgments.

~~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.~~

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. 15. Section 910.1, subsection 3, Code 1993, is amended to read as follows:

3. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. Restitution also includes fines, penalties, and surcharges, the payment of crime victim ~~assistance~~ compensation program reimbursements, court costs, court-appointed attorney's fees, or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs, court-appointed attorney's fees, or the expense of a public defender.

Sec. 16. Section 910.2, Code 1993, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases ~~except~~ including but not limited to simple misdemeanors under chapter 321, in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, court costs, court-appointed attorney's fees, or the expense of a public defender when applicable. However, victims shall be paid in full before ~~restitution is paid for~~ fines, penalties, and surcharges, crime victim ~~assistance~~ compensation program

reimbursement, court costs, court-appointed attorney's fees, or ~~for~~ the ~~expense~~ expenses of a public defender are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim ~~assistance~~ compensation program reimbursement, court costs, and court-appointed attorney's fees, or the expense of a public defender. When the offender is not reasonably able to pay all or a part of the crime victim ~~assistance~~ compensation program reimbursement, court costs, court-appointed attorney's fees, or the expense of a public defender, the court may require the offender in lieu of that portion of the crime victim ~~assistance~~ compensation program reimbursement, court costs, court-appointed attorney's fees, or expense of a public defender for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private, nonprofit agency which provides a service to the youth, elderly, or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 17. Section 910.3, Code 1993, is amended to read as follows:

910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

The county attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim ~~assistance programs~~ compensation program and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court shall prepare a statement of court-appointed attorney's fees, the expense of a public defender, and court costs, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing. If these statements are provided to the presentence investigator, they shall become a part of the presentence report. If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for ~~pecuniary damages incurred~~ restitution identified up to that time, ~~any award by the crime victim assistance programs, court-appointed attorney's fees or the expense of a public defender, and court costs~~. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.

Sec. 18. Section 910.9, unnumbered paragraph 3, Code 1993, is amended to read as follows:

~~Court~~ Fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs, court-appointed attorney's fees, and expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender, shall notify all victims that full restitution has been made, and a copy of the notice shall be sent to the sentencing court. Each office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records

to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

Sec. 19. Section 912.6, subsection 4, Code Supplement 1993, is amended to read as follows:

4. Reasonable funeral and burial expenses not to exceed ~~two thousand~~ five ~~hundred~~ thousand dollars.

Approved May 2, 1994

CHAPTER 1143

DISCLAIMER OF HOMESTEAD TAX CREDIT

H.F. 2413

AN ACT relating to the filing of a disclaimer of the homestead credit and the filing of a belated claim for the homestead credit.

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

Section 1. Section 425.2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

Upon the filing and allowance of the claim, the claim shall be allowed on that homestead for successive years without further filing as long as the property is legally or equitably owned and used as a homestead by that person or that person's spouse on July 1 of each of those successive years, and the owner of the property being claimed as a homestead declares residency in Iowa for purposes of income taxation, and the property is occupied by that person or that person's spouse for at least six months in each of those calendar years in which the fiscal year begins. When the property is sold or transferred, the buyer or transferee who wishes to qualify shall refile for the credit. However, when the property is transferred as part of a distribution made pursuant to chapter 598, the transferee who is the spouse retaining ownership of the property is not required to refile for the credit. Property divided pursuant to chapter 598 shall not be modified following the division of the property. An owner who ceases to use a property for a homestead or intends not to use it as a homestead for at least six months in a calendar year shall provide written notice to the assessor by July 1 following the date on which the use is changed. If the written notice is not provided to the assessor by the appropriate July 1, the owner forfeits the right to file a belated claim on another homestead for the year the notice should have been given. A person who sells or transfers a homestead or the personal representative of a deceased person who had a homestead at the time of death, shall provide written notice to the assessor that the property is no longer the homestead of the former claimant.

Approved May 2, 1994

CHAPTER 1144

CLAIMS FOR PROPERTY TAX CREDITS AND EXEMPTIONS
H.F. 2421

AN ACT relating to notices of disallowance of the homestead property tax credit and the military service property tax exemption.

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

Section 1. Section 425.3, unnumbered paragraph 4, Code 1993, is amended to read as follows:

The county auditor shall forward the claims to the board of supervisors. The board shall allow or disallow the claims. If the board disallows a claim, it shall send written notice, by mail, to the claimant at the claimant's last known address. The notice shall state the reasons for disallowing the claim for the credit. The board is not required to send notice that a claim is disallowed if the claimant voluntarily withdraws the claim.

Sec. 2. Section 427.6, unnumbered paragraph 4, Code 1993, is amended to read as follows:

The county auditor shall forward the claims to the board of supervisors. The board shall allow or disallow the claims. If the board disallows a claim, it shall send written notice, by mail, to the claimant at the claimant's last known address. The notice shall state the reasons for disallowing the claim for the exemption. The board is not required to send notice that a claim is disallowed if the claimant voluntarily withdraws the claim.

Approved May 2, 1994

CHAPTER 1145

PROPERTY TAX EXEMPTION FOR CERTAIN INSTITUTIONS IN CERTAIN COUNTIES
H.F. 2426

AN ACT relating to the abatement or refund of property taxes for nonprofit institutions in certain counties and providing an effective date.

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

Section 1. Notwithstanding any other provision of law, the board of supervisors of a county with a population of at least one hundred thousand but not more than two hundred thousand shall abate the property taxes due and payable or refund the property taxes and any interest and penalties, if paid, which were assessed for calendar year 1992, of a nonprofit institution, which were imposed on the grounds and buildings of the nonprofit institution, where the grounds and buildings have been used primarily for the housing of handicapped individuals since 1991 and where the present nonprofit institution which owned the grounds and buildings during 1992 failed to timely file for an exemption from property taxes assessed for calendar year 1992.

This section is repealed August 15, 1994.

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

Approved May 2, 1994

CHAPTER 1146

AGRICULTURAL COMMODITY ORGANIZATIONS

H.F. 2428

AN ACT relating to agricultural commodity organizations, by providing for their administration, the collection, deposit, and transfer of moneys, and assessments.

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

Section 1. Section 179.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 2. Section 179.5, subsection 3, Code 1993, is amended to read as follows:

3. All taxes levied and imposed under this chapter and other contributions made to the dairy industry commission, shall be paid to and collected by the commission within thirty days after the end of the month during which the milk was marketed. The commission shall remit the taxes and other contributions to the treasurer of the state each quarter, and at the same time render to the director of revenue and finance an itemized and verified report showing the source from which the taxes and voluntary contributions were obtained. All taxes and voluntary contributions received, collected and remitted shall be placed in a special fund by the treasurer of state and the director of revenue and finance, to be known as the "Dairy Industry Fund" to be used by the Iowa dairy industry commission for the purposes set out in this chapter and to administer and enforce the laws relative to this chapter. ~~Funds~~ The department of revenue and finance shall transfer moneys from the fund to the commission for deposit into an account established by the commission in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the commission. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. Moneys deposited in the ~~dairy industry~~ fund and transferred to the commission as provided in this section are appropriated and shall be used for the purpose of carrying out the provisions of this chapter.

Sec. 3. Section 179.8, Code 1993, is amended to read as follows:

179.8 PAYMENT OF EXPENSES — LIMITATION.

No part of the expense incurred by the commission shall be paid out of ~~any funds~~ moneys in the state treasury except ~~said~~ moneys transferred to the commission from the dairy industry fund ~~which shall be subject at all times to the warrant of the director of revenue and finance, drawn upon written requisition of the chairperson of the commission and attested by the secretary~~. Moneys transferred from the fund to the commission, as provided in section 179.5, shall be used for the payment of all salaries, and other expenses necessary, to carry out the provisions of this chapter~~, but~~. However, in no event shall the total expenses ~~therefor~~ exceed the total taxes collected and ~~deposited to the credit of said~~ transferred from the fund to the commission.

No more than five percent of the excise tax collected and received by the commission pursuant to section 179.5 shall be utilized for administrative expenses of the commission.

Sec. 4. Section 179.10, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

179.10 REPORT.

The commission shall each year prepare and submit a report summarizing the activities of the commission under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under this chapter.

Sec. 5. Section 181.2, subsection 7, Code 1993, is amended to read as follows:

7. ~~Make~~ Prepare an annual report of the proceedings and expenditures ~~to the secretary of agriculture~~ as provided in section 181.18B.

Sec. 6. Section 181.6, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 7. Section 181.13, Code 1993, is amended to read as follows:

181.13 ~~FUND~~ ADMINISTRATION OF MONEYS.

All excise taxes imposed and levied under this chapter shall be paid to and collected by the executive committee and deposited with the treasurer of state in a separate cattle and veal calf fund which ~~is hereby~~ shall be created by the treasurer of state. The department of revenue and finance shall transfer moneys from the fund to the executive committee for deposit into an account established by the executive committee in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the executive committee. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From the moneys collected, deposited, and transferred to the executive committee, in accordance with the provisions of this chapter, the executive committee shall first pay the costs of referendums held pursuant ~~hereto~~ to this chapter; the costs of collection of such excise tax, the expenses of its agents and expenses of officers provided for in section 181.5. Except as otherwise provided in section 181.19, at least thirty percent of the ~~funds remaining thereafter~~ remaining moneys shall be remitted to the national livestock and meat board and the beef industry council ~~thereof~~, and at least ten percent of the remaining funds shall be remitted to the Iowa beef cattle producers association in ~~such~~ proportions ~~as the~~ determined by the executive committee ~~may determine~~, for use ~~by them~~ in a manner not inconsistent with section 181.7. The remaining moneys ~~received~~, with approval of a majority of the executive committee, shall be expended as ~~found~~ the executive committee finds necessary to carry out the provisions and purposes of this chapter. ~~The cattle and veal calf fund shall be subject at all times to warrants by the director of revenue and finance, drawn upon the written requisition of the chairperson of the executive committee and attested to by its secretary, for the payment of all expenditures of the committee, which shall, at no time, exceed the amount deposited to the credit of such fund.~~ However, in no event shall the total expenses exceed the total amount transferred from the fund for use by the executive committee.

All moneys deposited in the cattle and veal calf fund and transferred to the executive committee pursuant to this section are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

Sec. 8. Section 181.16, Code 1993, is amended to read as follows:

181.16 MONEYS REMAINING IN FUND.

If any extension referendum fails to carry, moneys remaining in the cattle and veal calf fund or transferred to the executive committee, shall continue to be transferred and expended in accordance with the provisions of this chapter until exhausted.

Sec. 9. NEW SECTION. 181.18B REPORT.

The executive committee shall each year prepare and submit a report summarizing the activities of the executive committee under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under this chapter.

Sec. 10. Section 183A.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 11. Section 183A.7, Code 1993, is amended to read as follows:

183A.7 ~~FUND~~ ADMINISTRATION OF MONEYS.

Assessments imposed under this chapter paid to and collected by the Iowa pork producers council shall be deposited in the pork promotion fund which is established in the office of the treasurer of state. The department of revenue and finance shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the council. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open.

All moneys deposited in the pork promotion fund and transferred to the council as provided in this section are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

From the moneys collected, deposited, and transferred to the council as provided in this chapter, the council shall first pay the costs of referendums held pursuant to this chapter. Of the ~~funds~~ moneys remaining, at least ten percent shall be remitted to the national livestock and meat board and the pork industry group; ~~thereof,~~ at least twenty-five percent shall be remitted to the national pork producers council,; and at least fifteen percent shall be remitted to the Iowa pork producers association, in the proportion the committee determines, for use by recipients in a manner not inconsistent with market development as defined in section 183A.1. Moneys remaining ~~in the fund~~ shall be spent as found necessary by the council to further carry out the provisions and purposes of this chapter.

~~The pork promotion fund shall be subject at all times to warrants by the director of revenue and finance, drawn upon the written requisition of the chair of the council attested to by its secretary, for payment of expenditures of the council, which shall, at no time, exceed the amount deposited in the fund.~~ However, in no event shall the total expenses exceed the total amount of moneys transferred from the fund for use by the council.

Sec. 12. Section 183A.11, Code 1993, is amended to read as follows:

183A.11 AUDIT.

Moneys collected, ~~under authority of~~ deposited in the fund, and transferred to the council, as provided in this chapter shall be supervised by a certified public accountant employed by the council using generally accepted accounting principles and shall be subject to audit by the auditor of state.

Sec. 13. NEW SECTION. 183A.12A REPORT.

The council shall prepare and submit a report summarizing the activities of the council under this chapter each year to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

Sec. 14. Section 184A.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 15. Section 184A.4, Code 1993, is amended to read as follows:

184A.4 ~~DEPOSIT OF FEE~~ ADMINISTRATION OF MONEYS.

The fee imposed by this chapter shall be paid by the processor to the Iowa turkey marketing council. Amounts collected from the fees shall be deposited with the treasurer of state in a separate special fund to be known as the "Iowa turkey account". The department of revenue and finance shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the council. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open.

Sec. 16. Section 184A.6, Code 1993, is amended to read as follows:

184A.6 USE OF ~~FUNDS~~ MONEYS.

After payment of expenses, in accordance with section 184A.9 ~~all moneys in the Iowa turkey account~~ the council may ~~be used by the Iowa turkey marketing council~~ use moneys transferred to the council as provided in this chapter which are appropriated and shall be used for the administration of this chapter, and for payment of claims based upon obligations incurred in market development on behalf of the turkey industry ~~and such moneys are hereby appropriated for such purposes~~.

Sec. 17. Section 184A.9, Code 1993, is amended to read as follows:

184A.9 AUDIT.

Moneys collected ~~under authority of~~, deposited in the fund, and transferred to the council, as provided in this chapter shall be subject to audit by the auditor of state ~~and~~. The moneys shall be used by the council first for the payment of collection expenses and for payment of the costs and expenses arising in connection with conducting any required referendums, and secondly by the turkey marketing council for market development.

Sec. 18. Section 184A.17, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

184A.17 REPORT.

The council shall prepare and submit a report summarizing the activities of the council under this chapter each year to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

Sec. 19. Section 185.1, subsections 6 and 11, Code 1993, are amended to read as follows:

6. "Market development" means to engage in research and educational programs directed toward better and more efficient production and utilization of soybeans; to provide methods and means, including but not limited to, public relations and other promotion techniques for the maintenance of present markets; to provide for the development of new or larger domestic and foreign markets; and to provide for the prevention, modification, or elimination of trade barriers which obstruct the free flow of soybeans.

11. "Sale" or "purchase" includes but is not limited to the pledge or other encumbrance of soybeans as security for a loan extended under a federal price support loan program. ~~Actual~~ Sale and actual delivery of the soybeans under the federal price support loan program occurs when the soybeans are ~~pledged or otherwise encumbered to secure the loan~~ marketed following redemption by the producer or when the soybeans are forfeited in lieu of loan repayment. ~~The~~ If the soybeans are forfeited in lieu of repayment, the purchase price of the soybeans is the principal amount of the loan extended and the ~~purchase invoice for the soybeans is the documentation required for extension of the loan~~ assessment shall be collected at the time of loan settlement.

Sec. 20. Section 185.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 21. Section 185.10, Code 1993, is amended to read as follows:

185.10 EX OFFICIO MEMBERS.

The secretary, the dean of the college of agriculture of Iowa State University of science and technology, and the director of the Iowa department of economic development, or their designees, and two representatives of first purchaser organizations appointed by the board shall serve on the board as nonvoting ex officio members. ~~The Iowa grain and feed association and agri-industries shall each nominate two first purchaser representatives, and the board shall appoint one first purchaser representative from each set of nominations or another first purchaser of its choice as the first purchaser representatives on the board.~~

Sec. 22. Section 185.13, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Periodically review or evaluate each program conducted pursuant to this chapter to ensure that the program contributes to one of the purposes of the board.

Sec. 23. Section 185.21, Code 1993, is amended to read as follows:

185.21 ASSESSMENT.

An assessment adopted upon the initiation of a promotional order shall be collected during the effective period of the promotional order, and shall be of no force or effect upon termination of the promotional order.

The board shall determine and set the assessment rate. Assessments pursuant to the promotional order shall be paid into the soybean promotion fund established in section 185.26. An assessment shall not exceed ~~one cent per bushel upon~~ one-quarter of one percent of the net market price of the soybeans marketed in this state and sold to a first purchaser. The net market price is the sales price received by a producer for soybeans after adjustments for any premium or discount based on grading or quality factors. The rate of assessment shall be determined by the board ~~but shall not be changed, once established, during a marketing year~~. The board shall determine the effective date of a rate change.

Sec. 24. Section 185.24, Code 1993, is amended to read as follows:

185.24 ~~CANCELLATION~~ TERMINATION OF A PROMOTIONAL ORDER.

If a promotional order ~~has been canceled~~ is not extended as determined by a referendum~~,~~ ~~and~~ the secretary and the board shall terminate the promotional order in an orderly manner as soon as practicable. After all funds are expended, the board shall cease to function. Any funds remaining one year following the termination of a promotional order shall be disbursed by the board to the Iowa Soybean Association. However, if a future referendum passes, the board shall be reorganized by the secretary and members shall serve out their terms as though there had been no lapse of time between effective orders.

Sec. 25. Section 185.25, Code 1993, is amended to read as follows:

185.25 ~~EFFECTIVE PERIOD OF PROMOTIONAL ORDER~~ SPECIAL REFERENDUM — PRODUCER PETITION.

~~An assessment adopted upon the initiation of a promotional order shall be collected during the effective period of a promotional order, and shall be of no force or effect upon termination of a promotional order. Upon adoption of an initial promotional order, that promotional order shall be effective for four years from its effective date and shall be either extended or terminated as provided in this section.~~

Upon receipt of a petition not less than one hundred fifty nor more than two hundred forty days from a four-year anniversary of the effective date of an initial promotional order signed within that same period by a number of producers equal to or greater than one percent of the number of producers reported in the most recent United States census of agriculture, requesting a referendum to determine whether to extend the ~~assessment~~ promotional order, the secretary shall call a referendum to be conducted not earlier than thirty days before the four-year anniversary date. If the secretary determines that extension of the ~~assessment~~ promotional order is not favored by a majority of the producers voting in the referendum, the ~~secretary and the board shall terminate the assessment in an orderly manner as soon as practicable after the determination~~ promotional order shall be terminated as provided in section 185.24. If the ~~assessment~~ promotional order is terminated, another referendum shall not be held within one hundred eighty days. A succeeding referendum shall be called by the secretary upon the petition of a number of producers equal to or greater than one percent of the number of producers reported in the most recent United States census of agriculture requesting a referendum, who shall guarantee the costs of the referendum.

If no valid petition is received by the secretary within the time period described above, or if a petition is received but the referendum to extend the ~~assessment~~ promotional order passes, the promotional order shall continue in effect for four additional years from the anniversary of its effective date ~~described above~~.

Sec. 26. NEW SECTION. 185.25A SPECIAL REFERENDUM — REQUEST BY THE BOARD.

1. If the assessment rate approved by producers in the most recent referendum election conducted pursuant to this chapter is less than the maximum rate established in section 185.21, the board may request the secretary to call a special referendum at any time prior to the expiration of the promotional order. The referendum shall be conducted as provided in this chapter for referendum elections.

2. Producers shall vote on the question, as determined by the board, of whether to authorize an increase in the assessment rate or whether to authorize an extension of the promotional order and an increase of the assessment rate. The assessment rate shall not exceed the rate established in section 185.21.

a. If the secretary determines that the question of whether to authorize an increase in the assessment rate is approved in the special referendum, the rate of assessment shall be changed as provided in section 185.21.

b. If the secretary determines that the question of whether to extend the promotional order at the increased assessment rate is approved in the special referendum, the promotional order shall continue in effect for four additional years from the anniversary of its effective date, and the rate of assessment shall be changed as provided in section 185.21. If the secretary determines that the question has not been approved, the promotional order shall be terminated as provided in section 185.24.

Sec. 27. Section 185.26, Code 1993, is amended to read as follows:

185.26 ~~DEPOSIT OF FUNDS~~ ADMINISTRATION OF MONEYS.

Assessments collected by the board from a sale of soybeans shall be deposited in a special fund known as the soybean promotion fund, in the office of the treasurer of state ~~together with~~. The fund may also contain any gifts, or ~~any~~ federal or state grant ~~as may be~~ received by the board~~, and placed in a special fund to be known as the soybean promotion fund~~. Moneys collected, deposited into the fund, and transferred to the board, as provided in this chapter, shall be subject to audit by the auditor of state. The department of revenue and finance shall transfer moneys from the fund to the board for deposit into an account established by the board in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the board. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From moneys collected, deposited and transferred to the board as provided in this section, the board shall first pay the costs of referendums, elections and other expenses incurred in the administration of this chapter, ~~and thereafter~~ before moneys may be expended for the purpose of market development. ~~The fund shall be subject at all times to warrants by the director of revenue and finance, drawn upon the written requisition of the chairperson of the board and attested to by the secretary of the board.~~

Sec. 28. Section 185.28, Code 1993, is amended to read as follows:

185.28 ~~APPROPRIATION~~ USE OF MONEYS.

All moneys ~~deposited in the soybean promotion fund~~ collected, deposited, and transferred to the board as provided in this chapter, are appropriated and shall be used for the administration of this chapter by the board and for the payment of claims by the board based upon obligations incurred in the performance of board activities and functions ~~set forth~~ provided in this chapter.

Sec. 29. Section 185.29, Code 1993, is amended to read as follows:

185.29 REMISSION OF EXCESS FUNDS.

After the board has paid the costs of elections, referendum, necessary board expenses and administrative costs ~~have been paid~~, at least seventy-five percent of the remaining ~~funds in the soybean promotion fund~~ moneys collected, deposited in the fund, and transferred to the board as provided in this chapter, shall be expended by the board for market development activities ~~to include~~, including developing and expanding new markets for soybeans and

soybean products worldwide. The ~~funds can~~ moneys shall only be used for research, promotion, and education in co-operation with qualified agencies ~~who are equipped to do this kind of work~~.

Sec. 30. Section 185.30, Code 1993, is amended to read as follows:

185.30 BOND.

Every person occupying a position of trust under any provisions of this chapter shall ~~give~~ provide a bond in ~~such~~ an amount ~~as may be~~ required by the board~~, the~~. The premium for ~~which~~ the bond shall be paid out of moneys transferred from the soybean promotion fund to the board pursuant to section 185.26.

Sec. 31. Section 185.33, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

185.33 REPORT.

The board shall each year prepare and submit a report summarizing the activities of the board under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

Sec. 32. Section 185C.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 33. Section 185C.1, subsection 13, Code 1993, is amended to read as follows:

13. "Sale" or "purchase" ~~includes but is not limited to~~ may, to the extent determined by the board, include the pledge or other encumbrance of corn as security for a loan extended under a federal price support loan program. Actual delivery of the corn occurs when the corn is pledged or otherwise encumbered to secure the loan. The purchase price of the corn is the principal amount of the loan extended and the purchase invoice for the corn is the documentation required for extension of the loan.

Sec. 34. Section 185C.10, Code 1993, is amended to read as follows:

185C.10 EX OFFICIO MEMBERS.

The secretary, the dean of the college of agriculture of Iowa State University of science and technology, and the director of the Iowa department of economic development, or their designees, and two representatives of first purchaser organizations appointed by the board shall serve on the board as ex officio members. ~~The Iowa grain and feed association and agri-industries shall each nominate two first purchaser representatives, and the board shall appoint one first purchaser representative from each set of nominations or another first purchaser of its choice as the first purchaser representatives on the board.~~

Sec. 35. Section 185C.21, Code 1993, is amended to read as follows:

185C.21 STATE ASSESSMENT.

1. The board shall determine and set the state assessment rate. State assessments collected pursuant to the promotional order shall be paid into the corn promotion fund established in section 185C.26. Except as provided in subsection 2, a state assessment shall not exceed one-quarter of one cent per bushel upon corn marketed in this state. ~~The rate of the state assessment shall be determined by the board but shall not be changed, once established, during a marketing year. However, a board which has been reconstituted pursuant to section 185C.8 may change the rate of the state assessment in the marketing year in which the board is reconstituted.~~ The board shall establish the effective date of a rate change.

2. Upon request of the board, the secretary shall call a special referendum for producers to vote on whether to authorize an increase in the state assessment above one-quarter of one cent per bushel, notwithstanding subsection 1. The special referendum shall be conducted as provided in this chapter for referendum elections. However, the special referendum shall not affect the existence or length of the promotional order in effect. If a majority of the producers

voting in the special referendum approve the increase, the board, ~~at the end of the marketing year,~~ may increase the assessment to the amount approved in the special referendum. However a state assessment shall not exceed one-half of one cent per bushel of corn marketed in this state.

Sec. 36. Section 185C.26, Code 1993, is amended to read as follows:

185C.26 DEPOSIT OF MONEYS.

State assessments collected by the board from a sale of corn shall be deposited in the office of the treasurer of state ~~together with~~ in a special fund known as the corn promotion fund. The fund may include any gifts, or ~~any~~ federal or state grant ~~as may be~~ received by the board, ~~and placed in a special fund to be known as the corn promotion fund~~. Moneys collected, deposited in the fund, and transferred to the board as provided in this chapter, shall be subject to audit by the auditor of state. The department of revenue and finance shall transfer moneys from the fund to the board for deposit into an account established by the board in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the board. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open. From moneys collected, the board shall first pay all the direct and indirect costs incurred by the secretary and the costs of referendums, elections, and other expenses incurred in the administration of this chapter, ~~and thereafter~~ before moneys may be expended for the purpose of market development. ~~The fund shall be subject at all times to warrants by the director of revenue and finance, drawn upon the written requisition of the chairperson of the board and attested to by the secretary of the board.~~

Sec. 37. Section 185C.28, Code 1993, is amended to read as follows:

185C.28 ~~APPROPRIATION~~ USE OF MONEYS.

Moneys deposited in the corn promotion fund and transferred to the board as provided in section 185C.26, including federal moneys to the extent permitted by federal law, are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions ~~set forth~~ provided in this chapter.

Sec. 38. Section 185C.33, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

185C.33 REPORT.

The board shall each year prepare and submit a report summarizing the activities of the board under this chapter to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

Sec. 39. Section 196A.1, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. "Qualified financial institution" means a bank, credit union, or savings and loan as defined in section 12C.1.

Sec. 40. Section 196A.17, Code 1993, is amended to read as follows:

196A.17 ~~EGG FUND~~ ADMINISTRATION OF MONEYS.

Subject to the provisions of section 196A.15, the tax imposed by this chapter shall be remitted by the purchaser to the Iowa egg council not later than thirty days following each calendar quarter during which the tax was collected. Amounts collected from the tax shall be deposited in the office of the treasurer of state in a separate fund to be known as the Iowa egg fund. The department of revenue and finance shall transfer moneys from the fund to the council for deposit into an account established by the council in a qualified financial institution. The department shall transfer the moneys as provided in a resolution adopted by the council. However, the department is only required to transfer moneys once during each day and only during hours when the offices of the state are open.

Sec. 41. Section 196A.19, Code 1993, is amended to read as follows:

196A.19 USE OF ~~EGG FUND~~ MONEYS; AUDIT.

All moneys deposited in the Iowa egg fund and transferred to the council as provided in section 196A.17, are appropriated and shall be used for the administration of this chapter and for the payment of claims based upon obligations incurred in the performance of activities and functions set forth in this chapter.

Moneys collected ~~under the authority of~~, deposited in the fund, and transferred to the council as provided in this chapter are subject to audit by the auditor of state. The moneys transferred to the council, shall be used by the Iowa egg council first for the payment of collection expenses, second for payment of the costs and expenses arising in connection with conducting referendums, and third for market development. Moneys remaining ~~in the Iowa egg fund~~ after a referendum is held when a majority of the voters do not favor extending the tax shall continue to be expended in accordance with this chapter until exhausted.

Sec. 42. Section 196A.21, Code 1993, is amended to read as follows:

196A.21 BOND REQUIRED.

All persons holding positions of trust under this chapter shall ~~give~~ provide a bond in ~~the~~ an amount required by the council. The premiums for bond costs shall be paid from ~~the~~ moneys transferred from the Iowa egg fund to the council as provided in section 196A.17.

Sec. 43. Section 196A.25, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

196A.25 REPORT.

The council shall each year prepare and submit a report summarizing the activities of the council under this chapter each year to the auditor of state and the secretary of agriculture. The report shall show all income, expenses, and other relevant information concerning fees collected and expended under the provisions of this chapter.

Sec. 44. Section 421.31, subsection 2, Code 1993, is amended to read as follows:

2. PREAUDIT SYSTEM. To establish and fix a reasonable imprest cash fund for each state department and institution for disbursement purposes where needed. These revolving funds shall be reimbursed only upon vouchers approved by the director. It is the purpose of this subsection to establish a preaudit system of settling all claims against the state, but the preaudit system is not applicable to any of the ~~institutions~~ following:

a. Institutions under the control of the state board of regents. ~~or to the~~

b. The state fair board as established in chapter 173.

c. The Iowa dairy industry commission as established in chapter 179, the Iowa beef cattle producers association as established in chapter 181, the Iowa pork producers council as established in chapter 183A, the Iowa turkey marketing council as established in chapter 184A, the Iowa soybean promotion board as established in chapter 185, the Iowa corn promotion board as established in chapter 185C, and the Iowa egg council as established in chapter 196A.

Sec. 45. Section 421.31, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. ENTITIES REPRESENTING AGRICULTURAL PRODUCERS. To control the financial operations of the Iowa dairy industry commission as provided in chapter 179, the Iowa beef cattle producers association as provided in chapter 181, the Iowa pork producers council as provided in chapter 183A, the Iowa turkey marketing council as provided in chapter 184A, the Iowa soybean promotion board as provided in chapter 185, the Iowa corn promotion board as provided in chapter 185C, and the Iowa egg council as provided in chapter 196A.

Sec. 46. REPEALS. Sections 184A.7 and 196A.20, Code 1993, are repealed.

Approved May 2, 1994

CHAPTER 1147

USE OF MOBILE RADIO TRANSMITTERS FOR HUNTING
S.F. 2049

AN ACT relating to the use of mobile radio transmitters for hunting or the tracking of dogs or birds of prey, and providing a penalty.

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

Section 1. Section 481A.24, Code Supplement 1993, is amended to read as follows:

481A.24 USE OF MOBILE RADIO TRANSMITTER PROHIBITED – ~~EXCEPTION~~ EXCEPTIONS.

1. For the purposes of this section:

a. "One-way mobile radio transmitter" means a radio capable of transmitting a signal only but not capable of transmitting a voice signal. The signal may be tracked or located by radio telemetry or located by an audible sound.

b. "Two-way mobile radio transmitter" means a radio capable of transmitting and receiving voice messages including, but not limited to, a citizen band radio or a cellular telephone.

2. A Except as otherwise provided in this section, a person who is hunting shall not use a one-way or two-way mobile radio transmitter to communicate the location or direction of game or fur-bearing animals or to coordinate the movement of other hunters. This ~~section~~ subsection does not apply to the hunting of coyotes except during the shotgun deer season as set by the commission under section 481A.38.

3. A licensed falconer may use a one-way mobile radio transmitter to recover a free-flying bird of prey properly banded and covered on the falconry permit.

4. A person hunting with the aid of a dog may use at any time a one-way mobile transmitter designed to track or aid in the recovery of the dog.

Sec. 2. Section 805.8, subsection 5, paragraphs c and d, Code Supplement 1993, are amended to read as follows:

c. For violations of sections 481A.6, 481A.21, 481A.22, ~~481A.24,~~ 481A.26, 481A.50, 481A.56, 481A.60 through 481A.62, 481A.82, 481A.83, 481A.84, 481A.92, 481A.123, 482.7, 483A.7, 483A.8, 483A.23, and 483A.24, the scheduled fine is twenty-five dollars.

d. For violations of sections 481A.7, 481A.24, 481A.47, 481A.52, 481A.53, 481A.55, 481A.58, 481A.63, 481A.76, 481A.81, 481A.90, 481A.91, 481A.97, 481A.122, 481A.126, 481A.142, 482.8, and 483A.37, the scheduled fine is fifty dollars.

Approved May 4, 1994

CHAPTER 1148

FUR-BEARING ANIMALS AND OTHER WILDLIFE
S.F. 2071

AN ACT relating to the taking of fur-bearing animals for the protection of public or private property.

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

Section 1. Section 481A.12, Code 1993, is amended to read as follows:

481A.12 SEIZURE OF WILDLIFE TAKEN OR HANDLED ILLEGALLY.

The director or any peace officer shall seize with or without warrant and take possession of, or direct the disposal of, any fish, furs, birds, or animals, or mussels, clams, or frogs, which

have been caught, taken, or killed at a time, in a manner, or for a purpose, or had in possession or under control, or offered for shipment, or illegally transported in the state or to a point beyond its borders, contrary to the Code. All fish, furs, birds, or animals, or mussels, clams, or frogs seized under this section may be relinquished to a representative of the commission or disposed of.

Sec. 2. Section 481A.87, Code 1993, is amended to read as follows:

481A.87 OPEN SEASONS.

Except as otherwise provided, a person shall not take, capture, kill, or have in possession a fur-bearing animal or any of its parts at any time except during the open season as set by the commission except where the killing, trapping, or ensnaring is for the protection of a person or public or private property with the prior ~~written~~ permission of a duly appointed representative of the commission. If prior permission is impractical or impossible to obtain and the fur-bearing animal represents a threat to a person, domestic animal, or private property, the fur-bearing animal may be taken without prior permission. All furbearing animals ~~so~~ and all parts thereof taken as provided in the section shall be disposed of on the site or shall be relinquished to a representative of the commission.

Approved May 4, 1994

CHAPTER 1149

TAXATION OF PENSION INCOME OF NONRESIDENTS

S.F. 2074

AN ACT exempting from state income taxation pension income earned by a nonresident of the state and providing a retroactive applicability date.

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

Section 1. Section 422.8, subsection 2, Code 1993, is amended to read as follows:

2. Nonresident's net income allocated to Iowa is the net income, or portion thereof, which is derived from a business, trade, profession, or occupation carried on within this state or income from any property, trust, estate, or other source within Iowa. However, income derived from a business, trade, profession, or occupation carried on within this state and income from any property, trust, estate, or other source within Iowa shall not include distributions from pensions, including defined benefit or defined contribution plans, annuities, individual retirement accounts, and deferred compensation plans or any earnings attributable thereto so long as the distribution is directly related to an individual's documented retirement and received while the individual is a nonresident of this state. If a business, trade, profession, or occupation is carried on partly within and partly without the state, only the portion of the net income which is fairly and equitably attributable to that part of the business, trade, profession, or occupation carried on within the state is allocated to Iowa for purposes of section 422.5, subsection 1, paragraph "j", and section 422.13 and income from any property, trust, estate, or other source partly within and partly without the state is allocated to Iowa in the same manner, except that annuities, interest on bank deposits and interest-bearing obligations, and dividends are allocated to Iowa only to the extent to which they are derived from a business, trade, profession, or occupation carried on within the state.

Sec. 2. This Act applies retroactively to January 1, 1994, for tax years beginning on or after that date.

Approved May 4, 1994

CHAPTER 1150

MEDICAL ASSISTANCE — SERVICES TO PERSONS WITH DISABILITIES
S.F. 2196

AN ACT relating to medical assistance provisions involving the medical assistance advisory council and services to persons with disabilities.

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

Section 1. Section 249A.4, subsection 8, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Shall advise and consult at least semiannually with a council composed of the ~~president~~ presidents of the following organizations, or ~~the~~ a president's representative who is a member of the ~~professional~~ organization represented by the president, ~~of~~: the Iowa medical society, the Iowa osteopathic medical association, the Iowa state dental society, the Iowa state nurses association, the Iowa pharmacists association, the Iowa podiatry society, the Iowa optometric association, the community mental health centers association of Iowa, the Iowa psychological association, the Iowa hospital association, the Iowa osteopathic hospital association, opticians' association of Iowa, Inc., the Iowa hearing aid society, the Iowa speech, language, and hearing association, the Iowa health care association, the Iowa association for home care, the Iowa council of health care centers, and the Iowa association of homes for the aging, the Iowa psychiatric nurse managers network, the arc of Iowa which was formerly known as the association for retarded citizens of Iowa, the alliance for the mentally ill of Iowa, Iowa state association of counties, and the Iowa governor's planning council for developmental disabilities, together with one person designated by the Iowa state board of chiropractic examiners; one state representative from each of the two major political parties appointed by the speaker of the house, one state senator from each of the two major political parties appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, each for a term of two years; ~~the president or the president's representative of the association for retarded citizens;~~ four public representatives, appointed by the governor for staggered terms of two years each, none of whom shall be members of, or practitioners of, or have a pecuniary interest in any of the professions or businesses represented by any of the several professional groups and associations specifically represented on the council under this subsection, and at least one of whom shall be a recipient of medical assistance; the director of public health, or a representative designated by the director; and the dean of the college of medicine, university of Iowa, or a representative designated by the dean.

Sec. 2. Section 249A.4, subsection 8, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The director shall consider the advice and consultation offered by the council in the director's preparation of medical assistance budget recommendations.

Sec. 3. Section 249A.26, Code Supplement 1993, is amended to read as follows:

249A.26 ~~CANDIDATE SERVICES FUND~~ — COUNTY PARTICIPATION IN FUNDING FOR SERVICES TO PERSONS WITH DISABILITIES.

~~1. A state candidate services fund is created in the office of the treasurer of state under the authority of the department. The fund shall consist of moneys appropriated to the fund and moneys received from counties pursuant to this section. Notwithstanding section 8.33, moneys in the candidate services fund which are unobligated or unexpended on June 30 of any fiscal year shall not revert to the general fund of the state but shall remain in the candidate services fund and be used for the purposes of this section. Any interest or other earnings on the moneys in the candidate services fund shall remain in the candidate services fund and shall be used for the purposes of this section.~~

~~2.~~ The county of legal settlement shall ~~be billed~~ pay 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, persons with mental disorders resulting from Alzheimer's disease or substance abuse shall not be considered chronically mentally ill.

Sec. 4. Section 249A.25, Code 1993, is repealed.

Approved May 4, 1994

CHAPTER 1151

HEALTH CARE FACILITIES – CLASSIFICATIONS OF CARE

S.F. 2203

AN ACT relating to health care facilities by providing for special classifications of care and by determining the application of licensing requirements to adult day care and respite care services.

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

Section 1. Section 135C.1, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Adult day care services" means an organized program of supportive care provided for sixteen hours or less in a twenty-four-hour period to persons who require support and assistance on a regular or intermittent basis in a licensed health care facility.

NEW SUBSECTION. 17A. "Respite care services" means an organized program of temporary supportive care provided for twenty-four hours or more to a person in order to relieve the usual caregiver of the person from providing continual care to the person.

Sec. 2. Section 135C.2, subsection 3, Code 1993, is amended to read as follows:

3. ~~The department shall establish by administrative rule, within the residential care facility category, a special classification for residential facilities intended to serve mentally ill individuals.~~

a. The department shall establish by administrative rule the following special classifications:

(1) Within the residential care facility category, a special license classification for residential facilities intended to serve persons with mental illness.

(2) Within the nursing facility category, a special license classification for nursing facilities which designate and dedicate the facility or a special unit within the facility to provide care for persons who suffer from chronic confusion or a dementing illness. A nursing facility which designates and dedicates the facility or a special unit within the facility for the care of persons who suffer from chronic confusion or a dementing illness shall be specially licensed. For the purposes of this subsection, "designate" means to identify by a distinctive title or label and "dedicate" means to set apart for a definite use or purpose and to promote that purpose.

b. The department may also establish by administrative rule special classifications within the residential care facility, intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, or nursing facility categories, for facilities intended to serve individuals who have special health care problems or conditions in common. Rules establishing a special classification shall define the problem or condition to which the special classification is relevant and establish requirements for an approved program of care commensurate with the problem or condition~~, and~~. The rules may grant special variances or considerations to facilities licensed within the special classification.

c. The rules adopted for intermediate care facilities for the mentally retarded shall be consistent with, but no more restrictive than, the federal standards for intermediate care facilities for the mentally retarded established pursuant to the federal Social Security Act, § 1905(c)(d), as codified in 42 U.S.C. § 1396d, in effect on January 1, 1989. However, in order to be licensed the state fire marshal must certify to the department an intermediate care facility for the mentally retarded as meeting the applicable provisions of either the health care occupancies chapter or the residential board and care chapter of the life safety code of the national fire protection association, 1985 edition. The department shall adopt additional rules for intermediate care facilities for the mentally retarded pursuant to section 135C.14, subsection 8.

d. Notwithstanding the limitations set out in this subsection regarding rules for intermediate care facilities for the mentally retarded, the department shall consider the federal interpretive guidelines issued by the federal health care financing administration when interpreting the department's rules for intermediate care facilities for the mentally retarded. This use of the guidelines is not subject to the rulemaking provisions of sections 17A.4 and 17A.5, but the guidelines shall be published in the Iowa administrative bulletin and the Iowa administrative code.

Sec. 3. Section 135C.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. This chapter shall not apply to adult day care services provided in a health care facility. However, adult day care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

b. The level of care certification provisions pursuant to sections 135C.3 and 135C.4, the license application and fee provisions pursuant to section 135C.7, and the involuntary discharge provisions pursuant to section 135C.14, subsection 8, shall not apply to respite care services provided in a health care facility. However, respite care services shall not be provided by a health care facility to persons requiring a level of care which is higher than the level of care the facility is licensed to provide.

c. The department shall adopt rules to implement this subsection.

Approved May 4, 1994

CHAPTER 1152

SCHOOL SOCIAL STUDIES REQUIREMENTS

S.F. 2277

†**AN ACT** relating to social studies requirements in the schools.

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

Section 1. Section 256.11, subsection 5, paragraph b, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

Five units of the social studies including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot. All students shall complete a minimum of one-half unit of United States government and one unit of United States history. The one-half unit of United States government shall include the voting procedure as described in this lettered paragraph and section 280.9A. The government instruction shall also include a study of the Constitution of the United States and the bill of rights contained in the Constitution and an assessment of a student's knowledge of the Constitution and the bill of rights.

Approved May 4, 1994

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

CHAPTER 1153

TRUSTS, CONSERVATORSHIPS, AND OTHER PROBATE MATTERS

S.F. 2307

AN ACT relating to probate including the exclusion of revocable trusts from the restrictions on agricultural land ownership, the creation of standby conservatorships, and the creation and establishment of separate trusts in certain circumstances.

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

Section 1. Section 9H.1, Code Supplement 1993, is amended by adding the following new subsections and renumbering current subsections as necessary:

NEW SUBSECTION. 13A. "Grantor" means a natural person, other than a nonresident alien as defined under section 9H.1, who is the creator of a revocable trust or a trust.

NEW SUBSECTION. 17A. "Revocable trust" means a trust which provides that the grantor retains the power to amend, modify, or revoke the trust at any time prior to the death of the grantor, regardless of whether, subsequent to the execution of the revocable trust and at any time prior to death, the grantor is legally competent to exercise the power to amend, modify, or revoke the trust and regardless of when the trust is created.

Sec. 2. Section 9H.1, subsection 18, Code Supplement 1993, is amended to read as follows:

18. "Testamentary trust" means a trust created by devising or bequeathing property in trust in a will as such terms are used in the Iowa probate code. Testamentary trust includes a revocable trust that has not been revoked prior to the grantor's death.

Sec. 3. Section 9H.1, subsection 19, Code Supplement 1993, is amended to read as follows:

19. "Trust" means a fiduciary relationship with respect to property, subjecting the person by whom the property is held to equitable duties to deal with the property for the benefit of another person, which arises as a result of a manifestation of an intention to create it. Trust does not include a person acting in a fiduciary capacity, as defined in subsection 13, ~~of this section~~ or a revocable trust. A trust includes a legal entity holding property as trustee, agent, escrow agent, attorney-in-fact, and in any similar capacity.

Sec. 4. Section 9H.4, unnumbered paragraph 1, Code Supplement 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, revocable 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. 5. Section 9H.4, unnumbered paragraph 2, Code Supplement 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, revocable 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. 6. Section 9H.5, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. As used in this section, "authorized trust" does not include a revocable trust.

Sec. 7. NEW SECTION. 633.5 NONESTATE PROPERTY – INSURANCE PROCEEDS.
A decedent's estate shall not include life insurance proceeds, unless the proceeds are payable to the decedent's estate.

Sec. 8. Section 633.197, Code 1993, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. For purposes of this section, the gross assets of the estate shall not include life insurance proceeds, unless payable to the decedent's estate.

Sec. 9. Section 633.559, Code 1993, is amended to read as follows:
633.559 PREFERENCE AS TO APPOINTMENT.
The parents of a minor, or either of them, if qualified and suitable, shall be preferred over all others for appointment as guardian. Preference shall then be given to any person, if qualified and suitable, nominated as guardian for a minor child by a will executed by the parent having custody of a minor child, and any qualified and suitable person requested by a minor fourteen years of age or older, or by standby petition executed by a person having physical and legal custody of a minor. Subject to these preferences, the court shall appoint as guardian a qualified and suitable person who is willing to serve in that capacity.

Sec. 10. Section 633.571, Code 1993, is amended to read as follows:
633.571 PREFERENCE AS TO APPOINTMENT OF CONSERVATOR.
The parents of a minor, or either of them, if qualified and suitable, shall be preferred over all others for appointment as conservator. Preference shall then be given to any person, if qualified and suitable, nominated as conservator for a minor child by a will executed by the parent having custody of a minor child, and any qualified and suitable person requested by a minor fourteen years of age or older, or by standby petition executed by a person having physical and legal custody of a minor. Subject to these preferences, the court shall appoint as conservator a qualified and suitable person who is willing to serve in that capacity.

Sec. 11. NEW SECTION. 633.591A VOLUNTARY PETITION FOR APPOINTMENT OF CONSERVATOR FOR A MINOR – STANDBY BASIS.
A person having physical and legal custody of a minor may execute a verified petition for the appointment of a standby conservator of the proposed ward's property, upon the express condition that the petition shall be acted upon by the court only upon the occurrence of an event specified or the existence of a described condition of the mental or physical health of the petitioner, the occurrence of which event, or the existence of which condition, shall be established in the manner directed in the petition.

Sec. 12. NEW SECTION. 633.703A CREATION AND ESTABLISHMENT OF SEPARATE TRUSTS.
1. In order to allow a trust to qualify as a marital deduction trust for federal estate tax purposes, as a qualified subchapter S trust for federal income tax purposes, as separate trusts for federal generation-skipping tax purposes, or for any other federal or state income, estate, excise, or inheritance tax benefit or to facilitate the administration of a trust or trusts, the governing instrument of a trust may be amended as follows to permit the trust to be divided into one or more separate trusts or be consolidated with one or more other trusts into a single trust:
a. The trust governing instrument may be amended in any respect by any method set forth in the instrument or provided by law.
b. The trust governing instrument may also be amended by the trustee with the written approval of the settlor, and the living and competent beneficiaries entitled to income designated in the governing instrument by name or by class. The approval of a deceased or incapacitated settlor shall not be required.
c. If one or more of the required approvals cannot be obtained, the trustee may apply to the court that would have jurisdiction over the trust for approval of the amendment.

2. For purposes of obtaining the approval of the beneficiaries of a trust by agreement or by the court, the doctrine of virtual representation shall apply.

3. The court shall approve the amendment unless it determines that the proposed amendment will defeat or substantially impair the accomplishment of the trust purposes.

4. The effective date of an amendment shall be specified by the document, agreement, or order making or approving the amendment and the jurisdiction of the court shall be limited to the amendment proceeding unless the trust is being administered subject to court supervision.

Sec. 13. NEW SECTION. 633.703B AVAILABILITY OF AMENDMENT PROCEDURES.

Amendment procedures in this chapter shall be available to trusts created in any manner, whether by trust agreement, will, deed, or otherwise, and may be used on or after July 1, 1994, for any trust created before or after that date.

Approved May 4, 1994

CHAPTER 1154

HIV-RELATED TESTING OF CERTAIN OFFENDERS

H.F. 2149

AN ACT relating to HIV-related testing of convicted sexual assault offenders.

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

Section 1. Section 80.9, subsection 2, paragraph d, Code 1993, is amended to read as follows:

d. To collect and classify, and keep at all times available, complete information useful for the detection of crime, and the identification and apprehension of criminals. Such information shall be available for all peace officers within the state, under such regulations as the commissioner may prescribe;. The provisions of chapter 141 do not apply to the entry of human immunodeficiency virus-related information by criminal justice agencies, as defined in section 692.1, into the Iowa criminal justice information system or the national crime information center system. The provisions of chapter 141 also do not apply to the transmission of the same information from either or both information systems to criminal justice agencies. The provisions of chapter 141 also do not apply to the transmission of the same information from either or both information systems to employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the jurisdiction of the department of human services, and employees of city and county jails, if those employees have direct physical supervision over inmates of those facilities or institutions. Human immunodeficiency virus-related information shall not be transmitted over the police radio broadcasting system under chapter 693 or any other radio-based communications system. An employee of an agency receiving human immunodeficiency virus-related information under this section who communicates the information to another employee who does not have direct physical supervision over inmates, other than to a supervisor of an employee who has direct physical supervision over inmates for the purpose of conveying the information to such an employee, or who communicates the information to any person not employed by the agency or uses the information outside the agency is guilty of a class "D" felony. The commissioner shall adopt rules regarding the transmission of human immunodeficiency virus-related information including provisions for maintaining confidentiality of the information. The rules shall include a requirement that persons receiving information from the Iowa criminal justice information system or the national crime information center system receive training regarding confidentiality standards applicable to the information received from the system. The commissioner shall develop and establish, in cooperation with the department of corrections and

the Iowa department of public health, training programs and program criteria for persons receiving human immunodeficiency virus-related information through the Iowa criminal justice information system or the national crime information center system.

Sec. 2. Section 141.6, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. In addition to the provisions for partner notification provided under this section and notwithstanding any provision to the contrary, a county medical examiner or deputy medical examiner performing official duties pursuant to sections 331.801 through 331.805 or the state medical examiner or deputy medical examiner performing official duties pursuant to chapter 691, who determines through an investigation that a deceased person was infected with the human immunodeficiency virus, may notify the immediate family and any identified partners of the deceased of the finding.

Sec. 3. Section 141.23, subsection 1, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Employees of state correctional institutions subject to the jurisdiction of the department of corrections, employees of secure facilities for juveniles subject to the department of human services, and employees of city and county jails, if the employees have direct supervision over inmates of those facilities or institutions, in the exercise of the duties prescribed pursuant to section 80.9, subsection 2, paragraph "d".

Sec. 4. Section 709B.1, subsection 2, Code Supplement 1993, is amended to read as follows:

2. "Convicted offender" means a person convicted of a sexual assault or a juvenile who has been adjudicated delinquent for an act of sexual assault.

Sec. 5. Section 709B.2, subsection 1, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

If a person is convicted of sexual assault or adjudicated delinquent for an act of sexual assault, the county attorney, if requested by the petitioner, shall petition the court for an order requiring the ~~person~~ convicted offender to submit to an HIV-related test, provided that all of the following conditions are met:

Sec. 6. Section 709B.2, subsection 1, paragraph a, Code Supplement 1993, is amended to read as follows:

a. The sexual assault for which the offender was convicted or adjudicated delinquent included sufficient contact between the victim and the convicted offender to be deemed a significant exposure pursuant to section 709B.1.

Sec. 7. Section 709B.2, subsection 4, paragraph a, Code Supplement 1993, is amended to read as follows:

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 or adjudicated delinquent provided sufficient contact between the victim and the convicted offender to be deemed a significant exposure and to questions of law.

Sec. 8. Section 709B.2, subsection 5, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

Following the hearing, the court ~~may~~ shall 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:

Sec. 9. Section 709B.3, subsection 14, Code Supplement 1993, is amended to read as follows:

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~~ fourth degree of consanguinity.

Approved May 4, 1994

CHAPTER 1155

LOCAL GOVERNMENT FLOOD DAMAGE LOAN PROGRAM

H.F. 2435

AN ACT relating to establishing a loan program authorizing the Iowa finance authority to issue its bonds and to lend the proceeds to local governments to repair flood and water-damaged public property, or building new flood control barriers or facilities within a city, and providing an effective date.

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

Section 1. NEW SECTION. 16.181 LEGISLATIVE FINDINGS.

1. Certain Iowa municipalities, counties, and other public bodies within the state have experienced damage to public property due to the severe 1993 summer weather, including floods and high water.

2. The cost of repairing such damage, not reimbursed by insurance, federal assistance, or other means, has placed severe financial burdens upon these municipalities, counties, and other public bodies.

3. There currently exists a shortage of low cost means by which these municipalities, counties, and other public bodies can borrow or otherwise acquire funds to repair the damage.

4. The availability of loan funds from the authority will reduce the financing difficulties faced by these municipalities, counties, and other public bodies and permit them to continue to repair the damage and maintain their operations.

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

Sec. 2. NEW SECTION. 16.182 ESTABLISHMENT OF 1993 LOCAL GOVERNMENT FLOOD DAMAGE PROGRAM — DEFINITIONS.

1. The authority shall establish a 1993 local government flood damage program to make loans to municipalities for the purpose of repair of damage to their public property by reason of flood and water damage or for the purpose of constructing new flood control barriers or facilities located only within the incorporated boundaries of a city. The authority may issue its bonds or notes, or series of bonds or notes, for the purpose of funding the loans and may make secured loans to municipalities for the purposes on terms the authority determines.

2. For purposes of section 16.181, this section, and sections 16.183 through 16.186:

a. "Flood loss" means any damage to property of a municipality caused directly or indirectly by reason of the 1993 summer weather, flooding, or water problems.

b. "Municipality" means a public body that has sustained flood damage including, but not limited to, cities, counties, school corporations, entities created under chapter 28E, municipal utility boards, and judicial district departments of correctional services of this state.

c. "Program" means the 1993 local government flood damage program established by the authority pursuant to this section.

Sec. 3. NEW SECTION. 16.183 LOAN AGREEMENTS – BONDS AND NOTES.

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

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

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

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

c. That the bondholders or noteholders or a trustee or agent designated by the authority may collect, invest, and apply the amounts payable under the loan agreements or any other instruments, and that the payment or performance may be enforced in accordance with the loan agreements or other instruments.

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

3. The powers granted the authority under this section are in addition to other powers contained in this chapter. All other provisions of this chapter, except section 16.28, subsection 4, apply to bonds or notes issued and powers granted to the authority under this section except to the extent they are inconsistent with this section.

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

Sec. 4. NEW SECTION. 16.184 SECURITY – RESERVE FUNDS – NONLIABILITY – IRREVOCABLE CONTRACTS.

1. The authority may provide in the resolution, trust agreement, or other instrument authorizing the issuance of its bonds or notes pursuant to section 16.183 that the principal of, premium, and interest on the bonds or notes are payable solely out of the pledged receipts as designated in the resolution, trust agreement, or other instrument authorizing the issuance of the bonds or notes.

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

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

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

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

5. The bonds or notes issued by the authority are not an indebtedness or other liability of the state or of a political subdivision of the state within the meaning of any constitutional or statutory debt limitations but are special obligations of the authority, and are payable solely out of the pledged receipts to the extent that the pledged receipts are designated in the resolution, trust agreement, or other instrument of the authority authorizing the issuance of the bonds or notes as being available as security for such bonds or notes. The authority shall not pledge the faith or credit of the state to the payment of any bonds or notes. The authority shall not pledge the faith or credit of a municipality to the payment of any bonds or notes except as agreed to by the municipality in the loan agreement referred to in section 16.183, subsection 1. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate the state to apply moneys from, or levy or pledge any form of taxation whatever to the payment of, the bonds or notes. The issuance of any bonds or notes by the authority does not directly, indirectly, or contingently obligate a municipality to apply moneys from, or levy or pledge any form of taxation whatever to the payment of, the bonds or notes, except as agreed to by the municipality in the loan agreement referred to in section 16.183, subsection 1.

6. The state pledges to and agrees with the holders of bonds or notes issued under the program, that the state will not limit or alter the rights and powers vested in the authority to fulfill the terms of a contract made by the authority with respect to the bonds or notes, or in any way impair the rights and remedies of the holders until the bonds and notes, together with the interest on them including interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority may include this pledge and agreement of the state, as it refers to holders of bonds or notes of the authority, in a contract with the holders.

Sec. 5. NEW SECTION. 16.185 POWERS OF MUNICIPALITIES.

1. A municipality may enter into loan agreements and issue any type of obligations payable from any security which it is authorized by law to issue for any purpose for funding its flood loss or for funding new flood control barriers or facilities within a city. The funding of its flood loss by a municipality is an essential purpose under chapter 331 or 384.

2. To approve a loan agreement under section 16.183 for this purpose, a municipality shall follow the authorization procedures required for the issuance of general obligation bonds by cities as set out in section 384.25. Chapter 75 is not applicable.

Sec. 6. NEW SECTION. 16.186 OTHER LAWS NOT APPLICABLE.

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

Sec. 7. REPEAL. Sections 16.181 through 16.186 are repealed on August 1, 1996. The repeal of sections 16.181 through 16.186 shall not affect the operation or enforceability of any action taken or agreement entered into pursuant to sections 16.181 through 16.186 prior to August 1, 1996, by the authority, a municipality, or a bondholder or noteholder, and section 4.13 applies.

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

Approved May 4, 1994

CHAPTER 1156

ACCESS TO CHILD ABUSE INFORMATION

S.F. 2051

AN ACT relating to access to founded child abuse information by child day care resource and referral agencies.

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

Section 1. Section 235A.15, subsection 2, paragraph e, Code Supplement 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (12) To an administrator of a child day care resource and referral agency which has entered into an agreement authorized by the department to provide child day care resource and referral services. Access is authorized if the information concerns a person providing child day care services or a person employed by a provider of such services and the agency includes the provider as a referral or the provider has requested to be included as a referral.

Approved May 5, 1994

CHAPTER 1157

HAZARDOUS SUBSTANCES CLEANUP COSTS

S.F. 2216

AN ACT allowing recovery of hazardous substances cleanup costs by governmental subdivisions.

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

Section 1. Section 455B.392, subsection 1, paragraph a, Code Supplement 1993, is amended to read as follows:

a. The reasonable cleanup costs incurred by the state or its political subdivisions, by governmental subdivisions, or by any other persons participating in the prevention or mitigation of damages with the approval of the director, as a result of the failure of the person to clean up a hazardous substance involved in a hazardous condition caused by that person.

Sec. 2. Section 455B.392, subsection 5, Code Supplement 1993, is amended to read as follows:

5. Money collected pursuant to this section shall be deposited in the hazardous waste remedial fund created in section 455B.423 ~~and~~. Moneys shall be used to reimburse governmental subdivisions requested to assist in the cleanup for which the moneys were collected. The remainder of the moneys shall be used in the manner permitted for the fund.

Approved May 5, 1994

CHAPTER 1158

SUPPLEMENTAL NEEDS TRUSTS FOR PERSONS WITH DISABILITIES

S.F. 2264

AN ACT relating to the establishment of supplemental needs trusts for persons with disabilities.

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

Section 1. NEW SECTION. 634A.1 DEFINITIONS.

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

1. "Person with a disability" means a person to whom one of the following applies, prior to creation of a trust which otherwise qualifies as a supplemental needs trust for the person's benefit:

a. Is considered to be a person with a disability under the disability criteria specified in Title II or Title XVI of the federal Social Security Act.

b. Has a physical or mental illness or condition which, in the expected natural course of the illness or condition, to a reasonable degree of medical certainty, is expected to continue for a continuous period of twelve months or more and substantially impairs the person's ability to provide for the person's care or custody.

2. "Supplemental needs trust" means an inter vivos or testamentary trust created for the benefit of a person with a disability and funded by a person other than the trust beneficiary, the beneficiary's spouse, or any person obligated to pay any sum for damages or for any other purpose to or for the benefit of the trust beneficiary under the terms of a settlement agreement or judgment.

Sec. 2. NEW SECTION. 634A.2 SUPPLEMENTAL NEEDS TRUST — REQUIREMENTS.

1. A supplemental needs trust established in compliance with this chapter is in keeping with the public policy of the state and is enforceable.

2. A supplemental needs trust established under this chapter shall comply with all of the following:

a. Shall be established as a discretionary trust for the purpose of providing a supplemental source for payment of expenses which include but are not limited to the reasonable living expenses and basic needs of a person with a disability only if benefits from publicly funded benefit programs are not sufficient to provide adequately for those expenses and needs.

b. Shall contain provisions which prohibit disbursements that would result in replacement, reduction, or substitution for publicly funded benefits otherwise available to the beneficiary or in rendering the beneficiary ineligible for publicly funded benefits. The supplemental needs trust shall provide for distributions only in a manner and for purposes that supplement or complement the benefits available under medical assistance, state supplementary assistance, and other publicly funded benefit programs for persons with disabilities.

3. For the purpose of establishing eligibility of a person as a beneficiary of a supplemental needs trust, disability may be established conclusively by the written opinion of a licensed professional who is qualified to diagnose the illness or condition, if confirmed by the written opinion of a second licensed professional who is also qualified to diagnose the illness or condition.

4. A supplemental needs trust is not enforceable if the trust beneficiary becomes a patient or resident after sixty-four years of age in a state institution or nursing facility for six months or more and, due to the beneficiary's medical need for care in an institutional setting, there is no reasonable expectation, as certified by the beneficiary's attending physician, that the beneficiary will be discharged from the facility. For the purposes of this subsection, a beneficiary participating in a group residential program is not a patient or resident of a state institution or nursing facility.

5. The trust income and assets of a supplemental needs trust are considered available to the beneficiary for medical assistance or other public assistance program purposes to the extent that income and assets are considered available in accordance with the methodology applicable to a particular program.

6. A supplemental needs trust is not subject to administration in the Iowa district court sitting in probate. A trustee of a supplemental needs trust has all powers and shall be subject to all the duties and liabilities as provided in the probate code, except the duty of reporting to or obtaining approval of the court.

7. Notwithstanding the prohibition of the funding of a supplemental needs trust by the beneficiary, the beneficiary's spouse, or a person obligated to pay the beneficiary under a settlement agreement or judgment, a supplemental needs trust may be established with the proceeds of back payments made by the United States social security administration resulting from a judgment regarding the regulatory schemes for determination of child disability.

Approved May 5, 1994

CHAPTER 1159

DISCLOSURE OF PSYCHOLOGICAL TEST MATERIAL

S.F. 2287

AN ACT establishing requirements for disclosure of psychological test material.

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

Section 1. NEW SECTION. 228.9 DISCLOSURE OF PSYCHOLOGICAL TEST MATERIAL.

Except as otherwise provided in this section, a person in possession of psychological test material shall not disclose the material to any other person, including the individual who is a subject of the test. In addition, the test material shall not be disclosed in any administrative, judicial, or legislative proceeding. However, upon the request of an individual who is the subject of a test, all records associated with a psychological test of that individual shall be disclosed to a psychologist licensed pursuant to chapter 154B designated by the individual. An individual's request for the records shall be in writing and shall comply with the requirements of section 228.3, relating to voluntary disclosures of mental health information, except that the individual shall not have the right to inspect the test materials.

Approved May 5, 1994

CHAPTER 1160

MEDICAL ASSISTANCE SERVICES TO PERSONS WITH BRAIN INJURIES

S.F. 2297

AN ACT relating to a home and community-based waiver for persons with brain injury.

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

Section 1. HOME AND COMMUNITY-BASED WAIVER — PERSONS WITH BRAIN INJURY.

1. The department of human services shall submit a waiver request to the United States department of health and human services, on or before July 1, 1995, for approval for the redirection of resources for medical assistance services provided to persons with brain injuries, from institutional services to home and community-based services, which would allow persons with brain injuries to remain in or return to the person's home, community, or work force while retaining necessary personal support services.

2. Submission of the waiver is contingent upon the determination of the department that replacement of institutional services with home and community-based services would not have adverse fiscal result at the federal and state levels.

3. Upon approval by the United States department of health and human services, the department shall implement the waiver on the first day of the month following approval.

Approved May 5, 1994

CHAPTER 1161

PUBLIC SCHOOL SERVICES TO CHILDREN IN NONPUBLIC SCHOOLS

H.F. 2155

AN ACT relating to public school services provided to children attending nonpublic schools.

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

Section 1. Section 256.12, subsection 2, Code Supplement 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 shall make public school services, which shall include special education programs and services 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, and assistance with physical and communication needs of students with physical disabilities, and services of an educational interpreter, which may be provided on nonpublic school premises, with the permission of the lawful custodian.

Students enrolled in nonpublic schools who receive services pursuant to this subsection shall be weighted at the level provided for in section 256B.9, subsection 1.

A local school district providing services pursuant to this subsection shall submit an accounting to the department of education by August 1 following the school year for the actual costs of the special education programs and services provided. The department shall review and approve or modify the accounting by September 1 and shall notify the department of revenue and finance of the approved accounting amount. The department of revenue and finance shall adjust the September payment to the local school district for the next fiscal year by the difference between the amount generated by the weighting for the provision of services to nonpublic school students, as provided in this subsection, and the amount of the actual costs as reflected in the local school district's accounting. Any amount paid by the department of revenue and finance shall be deducted monthly from the state foundation aid paid under section 257.16 during that fiscal year to all school districts in the state. The portion of the total amount of the approved accounting amount that shall be deducted from the state aid of a school district shall be the same as the ratio that the budget enrollment for the budget year of the school district bears to the total budget enrollment in the state for that budget year.

Sec. 2. Section 256B.9, subsections 3 and 4, Code 1993, are amended to read as follows:

3. The weight that a child is assigned under this section shall be dependent upon the required educational modifications necessary to meet the special education needs of the child. Enrollment for the purpose of this section, and all payments to be made pursuant thereto, includes all children for whom a special education program or course is to be provided pursuant to section 256.12, subsection 2, sections 273.1 to 273.9, and this chapter, whether or not the children are actually enrolled upon the records of a school district.

4. On December 1, 1987, and no later than December 1 every two years thereafter, for the school year commencing the following July 1, the director of the department of education shall report to the school budget review committee the average costs of providing instruction for

children requiring special education in the categories of the weighting plan established under this section, and for providing services to nonpublic school students pursuant to section 256.12, subsection 2, and the director of the department of education shall make recommendations to the school budget review committee for needed alterations to make the weighting plan suitable for subsequent school years. The school budget review committee shall establish the weighting plan for each school year ~~after the school year commencing July 1, 1987,~~ and shall report the plan to the director of the department of education. ~~Commencing December 1, 1990, the~~ The school budget review committee may establish weights to the nearest hundredth. The school budget review committee shall not alter the weighting assigned to pupils in a regular curriculum, but it may increase or decrease the weighting assigned to each category of children requiring special education by not more than two-tenths of the weighting assigned to pupils in a regular curriculum. The state board of education shall adopt rules under chapter 17A, to implement the weighting plan for each year and to assist in identification and proper indexing of each child in the state who requires special education.

Approved May 5, 1994

CHAPTER 1162

REVENUE BOND PROJECTS

H.F. 2326

AN ACT relating to the definition of project for which certain revenue bonds may be issued by a city or county and providing an effective date.

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

Section 1. Section 419.1, subsection 12, paragraph a, Code 1993, is amended to read as follows:

a. Land, buildings, or improvements, whether or not in existence at the time of issuance of the bonds issued under this chapter, which are suitable for the use of a any of the following:

(1) A voluntary nonprofit hospital, clinic, or health care facility as defined in section 135C.1, subsection 5, ~~or of one~~.

(2) One or more physicians for an office building to be used exclusively by professional health care providers, including appropriate ancillary facilities, ~~or of a~~.

(3) A private college or university, or a state institution governed under chapter 262 whether for the establishment or maintenance of the college or university, ~~or of an~~ or state institution.

(4) An industry or industries for the manufacturing, processing, or assembling of agricultural or manufactured products, even though the processed products may require further treatment before delivery to the ultimate consumer, ~~or of a~~.

(5) A commercial enterprise engaged in storing, warehousing, or distributing products of agriculture, mining, or industry including but not limited to barge facilities and riverfront improvements useful and convenient for the handling and storage of goods and products, ~~or of a~~.

(6) A facility for the generation of electrical energy through the use of a renewable energy source including but not limited to hydroelectric and wind generation facilities, ~~or of a~~.

(7) A facility engaged in research and development activities, ~~or of a~~.

(8) A national, regional, or divisional headquarters facility of a company that does multistate business, ~~or of a~~.

(9) A museum, library, or tourist information center, ~~or of a~~.

(10) A telephone company, ~~or of a~~.

(11) A beginning businessperson for any purpose, ~~or of a~~.

(12) A commercial amusement or theme park, ~~or of a~~.

(13) A housing unit or complex for the elderly or handicapped~~, or of a~~.

(14) A fair or exposition held in the state, other than the Iowa state fair, which is a member of the association of Iowa fairs~~, or of a~~.

(15) A sports facility~~, or~~.

(16) A facility for an organization described in section 501(c)(3) of the Internal Revenue Code which is exempt from federal income tax under section 501(a) of the Internal Revenue Code.

Sec. 2. Section 419.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. To issue revenue bonds for the purpose of retiring any existing indebtedness on a facility for an organization described in section 501(c)(3) of the Internal Revenue Code which is exempt from federal income tax under section 501(a) of the Internal Revenue Code, to secure payment of the bonds as provided in this chapter, and to enter into agreements with others with respect to these bonds for the payments and upon the terms and conditions as the governing body may deem advisable in accordance with the provisions of this chapter. The retiring of any existing indebtedness on a facility for an organization described in section 501(c)(3) of the Internal Revenue Code is a "project" for the purposes of this chapter.

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

Approved May 5, 1994

CHAPTER 1163

COUNTY PROPERTY TAXES AND MENTAL HEALTH FINANCING

H.F. 2430

†**AN ACT** relating to the limitation on county expenditures for mental health, mental retardation, and developmental disabilities services funded by property taxes and the provision of those services, extending the limitation on the amount of property tax dollars that a county may collect from designated property tax levies, providing for other properly related matters, and providing effective and applicability date provisions.

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

Section 1. Section 249A.12, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. a. Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of the costs of intermediate care facility for the mentally retarded services provided under medical assistance to minors. Notwithstanding subsection 2 and contrary provisions of section 222.73, effective July 1, 1995, a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of such services provided to minors.

b. Effective July 1, 1995, the state shall be responsible for all of the nonfederal share of medical assistance home and community-based waivers for persons with mental retardation services provided to minors and a county is not required to reimburse the department and shall not be billed for the nonfederal share of the costs of the services.

Sec. 2. Section 331.438, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

331.438 COUNTY MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES EXPENDITURES.

1. For the purposes of this section and section 331.439, unless the context otherwise requires:

a. "Base year expenditures" means the actual expenditures made by a county for qualified mental health, mental retardation, and developmental disabilities services provided in the fiscal year beginning July 1, 1993, and ending June 30, 1994.

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

b. "State payment" means the payment made by the state to a county determined to be eligible for the payment in accordance with section 331.439. Except as modified based upon the actual amount of the appropriation for purposes of state payment under section 331.439, the amount of the state payment for a fiscal year shall be calculated as fifty percent of the amount by which the county's qualified expenditures during the immediately preceding fiscal year were in excess of the amount of the county's base year expenditures.

2. The state payment shall not include any expenditures for services that were provided but not reported in the county's base year expenditures or for any expenditures which were not included in the county management plan submitted by the county in accordance with section 331.439. A county's eligibility for state payment is subject to the provisions of section 331.439.

3. a. A state-county management committee is created in the department of human services to make recommendations for joint state and county planning, implementing, and funding of mental health, mental retardation, and developmental disabilities services, including but not limited to developing and implementing fiscal and accountability controls, establishing management plans, and ensuring that eligible persons have access to appropriate and cost-effective services.

b. The management committee shall consist of not more than nine members representing the state and counties. An equal number of the not more than nine members shall be appointed by the director of human services and the Iowa state association of counties and one additional member shall be jointly appointed by both entities. In addition, the committee shall also include one member nominated by service providers and one member nominated by service advocates and consumers, with both members appointed by the governor. In addition, the committee shall include four members of the general assembly with one each designated by the majority leader and minority leader of the senate and the speaker and minority leader of the house of representatives. A legislative member serves in an ex officio, nonvoting capacity and is eligible for per diem and expenses as provided in section 2.10. A member who is not a legislator shall have expenses and other costs paid by the state or the county entity that the member represents. The committee shall establish terms for its members, elect officers, adopt operating procedures, and meet as deemed necessary by the committee.

c. The management committee shall do all of the following:

(1) Identify characteristics of the service system, including amounts expended, equity of funding among counties, funding sources, provider types, service availability, and equity of service availability among counties and among persons served.

(2) Assess the accuracy and uniformity of record keeping and reporting in the service system.

(3) Identify for each county the factors associated with inflationary growth of the service system.

(4) Identify opportunities for containing service system growth.

(5) Make recommendations for revising service system administrative rules.

(6) Consider provisions for counties to implement a single point of accountability to plan, budget, and monitor county expenditures for the service system. The provisions shall provide options for counties to implement the single point in collaboration with other counties.

(7) Develop criteria for annual county mental health, mental retardation, and developmental disabilities plans.

(8) Make recommendations to the council on human services for administrative rules identifying qualified mental health, mental retardation, and developmental disabilities service expenditures for purposes of state payment pursuant to subsection 1.

(9) Make recommendations to the council on human services for administrative rules for the county single entry point and clinical assessment processes required under section 331.440 and other rules necessary for the implementation of county management plans and expenditure reports required for state payment pursuant to section 331.439.

(10) Make recommendations to improve the programs and cost effectiveness of state and county contracting processes and procedures, including strategies for negotiations relating to managed care.

(11) Provide input when appropriate, to the director of human services in any decision involving administrative rules which were initially recommended by the management committee.

(12) Identify the fiscal impact of existing or proposed legislation and administrative rules on state and county expenditures.

(13) No later than January 1, annually, submit a report to the governor, the general assembly, and the department of human services concerning the management committee's activities and findings.

(14) On or before December 1, 1994, submit to the governor and general assembly a methodology for the state and counties to move toward the goal of an equal partnership in the funding of mental health, mental retardation, and developmental disabilities services. The committee consideration of methodology options shall include an expenditure per consumer basis.

Sec. 3. NEW SECTION. 331.439 ELIGIBILITY FOR STATE PAYMENT.

The state payment to eligible counties under this section shall be made in January of the fiscal year for which the appropriation for the state payment is made. A county is eligible for state payment as defined in section 331.438 for the fiscal year beginning July 1, 1996, and for subsequent fiscal years if the director of human services determines for a specific fiscal year that all of the following conditions are met:

1. The county accurately reported by October 15 the county's expenditures for the previous fiscal year on forms prescribed by the department of human services.

2. The county has implemented a single entry point process in accordance with the rules adopted pursuant to section 331.440.

3. The county developed and implemented a county management plan for the county's mental health, mental retardation, and developmental disabilities services. The plan shall comply with the administrative rules adopted for this purpose by the council on human services and is subject to the approval of the director of human services in consultation with the state-county management committee created in section 331.438. The plan shall include a description of the county's single point of entry and clinical assessment process in accordance with the rules adopted pursuant to section 331.440 and a description of the county's service management provision for mental health, mental retardation, and developmental disabilities services. The plan shall have the following two parts:

a. For mental health service management, the county must contract with a state-approved managed mental health care contractor or describe the method the county will use to achieve a comparable system of managed care which assures cost-effective delivery of services. For the fiscal year beginning July 1, 1995, this part of the plan shall be submitted to the department of human services by March 1, 1995. For subsequent fiscal years, this part of the plan shall be submitted by the prior April 1.

b. For mental retardation and developmental disabilities service management, the county must describe efforts to investigate the development and implementation of a system of managed care which assures cost-effective delivery of services. For the fiscal year beginning July 1, 1995, this part of the plan shall be submitted to the department of human services by March 1, 1995. For subsequent fiscal years, this part of the plan shall be submitted by the prior April 1.

4. Changes to the approved plan are submitted sixty days prior to the proposed change and are not to be implemented prior to the director of human services' approval.

The director's approval of a county's mental health, mental retardation, and developmental disabilities services management plan shall not be construed to constitute certification of the county's budget.

Sec. 4. NEW SECTION. 331.440 MENTAL HEALTH, MENTAL RETARDATION, AND DEVELOPMENTAL DISABILITIES SERVICES – SINGLE ENTRY POINT PROCESS.

1. a. For the purposes of this section, unless the context otherwise requires, "single entry point process" means a single entry point process established by a county or consortium of counties for the delivery of mental health, mental retardation, and developmental disabilities services which are paid for in whole or in part by county funds. The single entry point process

may include but is not limited to reviewing a person's eligibility for services, determining the appropriateness of the type, level, and duration of services, and performing periodic review of the person's continuing eligibility and need for services. Any recommendations developed concerning a person's plan of services shall be consistent with the person's unique strengths, circumstances, priorities, concerns, abilities, and capabilities. For those services funded under the medical assistance program, the single entry point process shall be used to assure that the person is aware of the appropriate service options available to the person.

b. The single entry point process may include a clinical assessment process to identify a person's service needs and to make recommendations regarding the person's plan for services. The clinical assessment process shall utilize qualified mental health professionals and qualified mental retardation professionals.

2. The department of human services shall seek federal approval as necessary for the single entry point and clinical assessment processes to be eligible for federal financial participation under medical assistance. A county may implement the single entry point process as part of a consortium of counties and may implement the process beginning with the fiscal year ending June 30, 1995.

3. The council on human services shall consider the recommendations of the state-county management committee established in section 331.438 in adopting rules outlining standards and requirements for implementation of the single entry point and clinical assessment processes on the date required by subsection 2. The rules shall permit counties options in implementing the process based upon a county's consumer population and available service delivery system.

Sec. 5. NEW SECTION. 444.25A PROPERTY TAX LIMITATIONS FOR 1996 AND 1997 FISCAL YEARS.

1. COUNTY LIMITATION. The maximum amount of property tax dollars which may be certified by a county for taxes payable in the fiscal year beginning July 1, 1995, shall not exceed the amount of property tax dollars certified by the county for taxes payable in the fiscal year beginning July 1, 1994, and the maximum amount of property tax dollars which may be certified by a county for taxes payable in the fiscal year beginning July 1, 1996, shall not exceed the amount of property tax dollars certified by the county for taxes payable in the fiscal year beginning July 1, 1995, 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:

a. General county services under section 331.422, subsection 1.

b. Rural county services under section 331.422, subsection 2.

c. Other taxes under section 331.422, subsection 4.

2. EXCEPTIONS. The limitations provided in subsection 1 do not apply to the levies made for the following:

a. Debt service to be deposited into the debt service fund pursuant to section 331.430.

b. Taxes approved by a vote of the people which are payable during the fiscal year beginning July 1, 1995, or July 1, 1996.

c. Hospitals pursuant to chapters 37, 347, and 347A.

d. Emergency management to be deposited into the local emergency management fund and expended for development of hazardous substance teams pursuant to chapter 29C.

e. Unusual need for additional moneys to finance existing programs which would provide substantial benefit to county residents or compelling need to finance new programs which would provide substantial benefit to county residents. The increase in taxes levied under this exception for the fiscal year beginning July 1, 1995, is limited to no more than the product of the total tax dollars levied in the fiscal year beginning July 1, 1994, and the percent change, computed to two decimal places, in the price index for government purchases by type for state and local governments computed for the third quarter of calendar year 1994 from that computed for the third quarter of calendar year 1993. The increase in taxes levied under this exception for the fiscal year beginning July 1, 1996, is limited to no more than the product of the total tax dollars levied in the fiscal year beginning July 1, 1995, and the percent change, computed to two decimal places, in the price index for government purchases by type for state and local governments computed for the third quarter of calendar year 1995 from that computed for the third quarter of calendar year 1994.

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 the fiscal years beginning July 1, 1995, and July 1, 1996, the price index used shall be the revision published in the November 1994 and November 1995 issues, respectively, of the United States department of commerce publication, "survey of current business". For purposes of this paragraph, tax dollars levied in the fiscal years beginning July 1, 1994, and July 1, 1995, shall not include funds levied for paragraphs "a", "b", and "c" of this subsection.

Application of this exception shall require an original publication of the budget and a public hearing and a second publication and a second hearing both in the manner and form prescribed by the director of the department of management, notwithstanding the provisions of section 331.434. The publications and hearings prescribed in this paragraph shall be held and the budget certified no later than March 15. The taxes levied for counties whose budgets are certified after March 15, 1995, shall be frozen at the fiscal year beginning July 1, 1994, level, and the taxes levied for counties whose budgets are certified after March 15, 1996, shall be frozen at the fiscal year beginning July 1, 1995, level.

3. APPEAL PROCEDURES. In lieu of the procedures in sections 24.48 and 331.426, which procedures do not apply for taxes payable in the fiscal years beginning July 1, 1995, and July 1, 1996, if a county needs to raise property tax dollars from a tax levy in excess of the limitations imposed by subsection 1, the following procedures apply:

a. Not later than March 1, and after the publication and public hearing on the budget in the manner and form prescribed by the director of the department of management, notwithstanding section 331.434, the county shall petition the state appeal board for approval of a property tax increase in excess of the increase provided for in subsection 2, paragraph "e", on forms furnished by the director of the department of management. Applications received after March 1 shall be automatically ineligible for consideration by the board.

b. Additional costs incurred by the county due to any of the following circumstances shall be the basis for justifying the excess in property tax dollars:

(1) Natural disaster or other life-threatening emergencies.

(2) Unusual need for additional moneys to finance existing programs which would provide substantial benefit to county residents or compelling need to finance new programs which would provide substantial benefit to county residents.

(3) Need for additional moneys for health care, treatment and facilities, including mental health and mental retardation care and treatment pursuant to section 331.424, subsection 1, paragraphs "a" through "h".

(4) Judgments, settlements, and related costs arising out of civil claims against the county and its officers, employees, and agents, as defined in chapter 670.

c. The state appeal board shall approve, disapprove, or reduce the amount of excess property tax dollars requested. The board shall take into account the intent of this section to provide property tax relief. The decision of the board shall be rendered at a regular or special meeting of the board within twenty days of the board's receipt of an appeal.

d. Within seven days of receipt of the decision of the state appeal board, the county shall adopt and certify its budget under section 331.434, which budget may be protested as provided in section 331.436. The budget shall not contain an amount of property tax dollars in excess of the amount approved by the state appeal board.

4. RATE ADJUSTMENT BY COUNTY AUDITOR. In addition to the requirement of the county auditor in section 444.3 to establish a rate of tax which does not exceed the rate authorized by law, the county auditor shall also adjust the rate if the amount of property tax dollars to be raised is in excess of the amount specified in subsection 1, as may be adjusted pursuant to subsection 3.

Sec. 6. Section 444.26, Code 1993, is amended to read as follows:

444.26 PROPERTY TAX LEVY LIMITATIONS NOT AFFECTED.

~~Section~~ Sections 444.25 and 444.25A shall not be construed as removing or otherwise affecting the property tax limitations otherwise provided by law for any tax levy of the political subdivision, except that, upon an appeal from the political subdivision, the state appeal board may approve a tax levy consistent with the provisions of section 24.48 or 331.426.

Sec. 7. Section 444.27, Code 1993, is amended to read as follows:

444.27 SECTIONS VOID.

~~Sections~~ For purposes of section 444.25, sections 24.48 and 331.426 are void for the fiscal years beginning July 1, 1993, and July 1, 1994. For purposes of section 444.25A, sections 24.48 and 331.426 are void for the fiscal years beginning July 1, 1995, and July 1, 1996.

Sec. 8. REPEAL.

1. If an appropriation is not enacted by the Seventy-sixth General Assembly, 1995 regular session, to fully fund the provisions of section 1 of this Act, section 444.25A and the amendments to sections 444.26 and 444.27, as enacted by this Act, are repealed effective April 1, 1995. If the repeals provided in this subsection take effect, notwithstanding section 24.17, for the fiscal year beginning July 1, 1995, the budget of each county may be recertified in duplicate to the county auditor not later than April 15, 1995, and protests to the budget shall be filed not later than April 25, 1995.

2. If appropriations are not enacted by the Seventy-sixth General Assembly, 1996 Session, to fully fund the unmodified state payment calculation provisions of sections 331.438 and 331.439, as enacted in this Act, in fiscal year 1996-1997, section 444.25A and the amendments to sections 444.26 and 444.27, as enacted by this Act, are repealed effective April 1, 1996. If the repeals provided in this section take effect, notwithstanding section 24.17, for the fiscal year beginning July 1, 1996, the budget of each county may be recertified in duplicate to the county auditor not later than April 15, 1996, and protests to the budget shall be filed not later than April 25, 1996.

Approved May 5, 1994

CHAPTER 1164

DESTRUCTION OF TRANSPORTATION DEPARTMENT RECORDS
S.F. 2038

AN ACT to provide for the destruction of state department of transportation records.

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

Section 1. Section 321.12, Code 1993, is amended to read as follows:
321.12 OBSOLETE RECORDS DESTROYED.
The director may destroy any records of the department which have been maintained on file for three years which the director deems obsolete and of no further service in carrying out the powers and duties of the department. However, operating records relating to a person who has been issued a commercial driver's license shall be maintained on file in accordance with rules adopted by the department. Records concerning suspensions authorized under section 321.210, subsection 1, paragraph "g", and section 321.210A may be destroyed six months after the suspension is terminated and the requirements of section 321.191 have been satisfied. Records concerning suspensions and surrender of licenses or registrations required under section 321A.31 for failing to maintain proof of financial responsibility as defined in section 321A.1, may be destroyed six months after the requirements of sections 321.191 and 321A.29, have been satisfied.

Sec. 2. Section 321.12, Code 1993, is amended by adding the following new unnumbered paragraph:
NEW UNNUMBERED PARAGRAPH. The director shall destroy any operating records pertaining to arrests or convictions for operating while intoxicated, in violation of section 321J.2, which are more than twelve years old. The twelve-year period shall commence with the date of the arrest or conviction for the offense, whichever first occurs. However, the director shall not destroy operating records which pertain to arrests or convictions for operating while intoxicated after the expiration of twelve years when the motor vehicle being operated was a commercial motor vehicle.

Approved May 10, 1994

CHAPTER 1165

STATE TAXES – MISCELLANEOUS PROVISIONS
S.F. 2057

AN ACT relating to the procedures, requirements, liability, and penalties for the imposition and collection of state taxes, refund and credit claims, and state finances and providing effective and retroactive applicability date provisions.

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

Section 1. Section 421.4, Code 1993, is amended to read as follows:
421.4 DEPUTIES.
The director may appoint deputy directors and may designate one or more of the deputies as acting director. A deputy designated to serve in the absence of the director has all of the powers possessed by the director. The director may employ certified public accountants, engineering and technical assistants, and other employees necessary to protect the interests of the state and any political subdivision. ~~All independent contracts and fees provided for in this section are subject to the approval of the governor.~~

Sec. 2. Section 421.5, Code 1993, is amended to read as follows:

421.5 SETTLING DOUBTFUL CLAIMS FOR TAXES.

The director may compromise and settle doubtful and disputed claims for taxes or refunds or tax liability of doubtful collectibility notwithstanding the provisions of section 7D.9. Whenever such a compromise and settlement is made ~~or any other compromise and settlement in excess of the director's authority is made~~, the director shall make a complete record of the case showing the tax assessed or claimed due, tax refund claimed, recommendations, reports, and audits of departmental personnel if any, the taxpayer's grounds for dispute or contest together with all evidence thereof, and the amounts, conditions, and settlement or compromise of same.

Sec. 3. Section 421.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~The~~ Immediately upon issuance of a distress warrant authorized by section 422.26, the director may make application to the district court or judicial magistrate for an administrative search warrant as authorized by section 808.14 to execute ~~a~~ the distress warrant ~~authorized by section 422.26~~.

Sec. 4. Section 421.17, subsection 5, Code Supplement 1993, is amended to read as follows:

5. To direct proceedings, actions, and prosecutions to be instituted for the enforcement of the laws relating to the penalties, liabilities, and punishment of public officers, and officers or agents of corporations, and other persons or corporations, for failure or neglect to comply with the provisions of the statutes governing the return, assessment and taxation of property; to make or cause to be made complaints against members of boards of review, boards of supervisors or other assessing, reviewing, or taxing officers for official misconduct or neglect of duty. ~~Provided, that employees~~ Employees of the department of revenue and finance shall not during their regular hours of employment engage in the preparation of tax returns ~~for individuals~~, except in connection with a regular audit ~~thereof~~ of a tax return or in connection with assistance requested by the taxpayer.

Sec. 5. Section 421.17, subsection 10, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

The director may correct obvious errors or obvious injustices in the assessment of any individual property, but the director shall not reduce the valuation of any individual property except upon the recommendation of the local board of review and ~~no~~ an order of the director affecting any valuation shall not be retroactive as to any reduction or increase in taxes payable prior to January 1 of the year in which ~~such~~ that order is issued, or prior to September 1 of the preceding year in cities under special charter which collect their own municipal levies. The director shall not correct errors or injustices under the authority of this paragraph if that correction would involve the exercise of judgment. Judicial review of the actions of the director may be sought in accordance with the terms of the Iowa administrative procedure Act.

Sec. 6. Section 421.17, subsection 22, Code Supplement 1993, is amended to read as follows:

22. To employ collection agencies, within or without the state, to collect delinquent taxes, including penalties and interest, administered by the department or delinquent accounts, charges, loans, fees or other indebtedness due the state or any state agency, that have formal agreements with the department for central debt collection where the director finds that departmental personnel are unable to collect the delinquent accounts, charges, loans, fees, or other indebtedness because of a ~~taxpayer's~~ debtor's location outside the state or for any other reason. Fees for services, reimbursement, or other remuneration, including attorney fees, paid to collection agencies shall be based upon the amount of tax, penalty, and interest or debt actually collected and shall be paid only after the amount of tax, penalty, and interest or debt is collected. All funds collected must be remitted in full to the department within thirty days from the date of collection from a ~~taxpayer~~ debtor or in a lesser time as the director prescribes. The funds shall be applied toward the ~~taxpayer's~~ debtor's account and handled as are funds received

by other means. An amount is appropriated from the amount of tax, penalty, and interest, delinquent accounts, charges, loans, fees, or other indebtedness actually collected by the collection agency sufficient to pay all fees for services, reimbursement, or other remuneration pursuant to a contract with a collection agency under this subsection. A collection agency entering into a contract with the department for the collection of delinquent taxes, penalties, and interests, delinquent accounts, charges, loans, fees, or other indebtedness pursuant to this subsection is subject to the requirements and penalties of ~~tax information~~ the confidentiality laws of this state regarding tax or indebtedness information. ~~All contracts and fees provided for in this subsection are subject to the approval of the governor.~~

Sec. 7. Section 421.23, Code 1993, is amended to read as follows:

421.23 FEES AND MILEAGE.

The fees and mileage of witnesses attending any hearing of the department, including contested case hearings, pursuant to any subpoena, shall be the same as those of witnesses in civil cases in district court.

Sec. 8. Section 421.26, Code 1993, is amended to read as follows:

421.26 PERSONAL LIABILITY FOR TAX DUE.

If a licensee or other person under section 452A.65, a retailer or purchaser under chapter 422A or 422B, or section 422.52, or a retailer or purchaser under section 423.13 or a user under section 423.14 fails to pay a tax under those sections when due, an officer of a corporation or association, notwithstanding sections 490A.601 and 490A.602, a member or manager of a limited liability company, or a partner of a partnership, having control or supervision of or the authority for remitting the tax payments and having a substantial legal or equitable interest in the ownership of the corporation, association, limited liability company, or partnership, who has intentionally failed to pay the tax is personally liable for the payment of the tax, interest, and penalty due and unpaid. However, this section shall not apply to taxes on accounts receivable. The dissolution of a corporation, association, limited liability company, or partnership shall not discharge a person's liability for failure to remit the tax due.

Sec. 9. Section 421.27, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. If the availability of funds in payment of tax required to be made through electronic funds transfer is delayed and the delay of availability is due to reasons beyond the control of the taxpayer. "Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal telephone, computer, magnetic tape, or similar device for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.

Sec. 10. NEW SECTION. 421.29 REGISTRATIONS.

For purposes of the provisions of the Code which are administered by the department, "permit" or "license" includes registration. Unless otherwise specifically provided, the director shall determine by rule the circumstances for which registrations shall be issued and displayed.

Sec. 11. Section 421.45, Code 1993, is amended to read as follows:

421.45 CANCELLATION OF STATE WARRANTS.

~~The~~ On the last business day of each month, the director of the department of revenue and finance, ~~as of March 31, June 30, September 30, and December 31 of each year~~ shall cancel and request the treasurer of state to stop payment on all state warrants which have been outstanding and unredeemed by the state treasurer for six months or longer.

Sec. 12. Section 422.7, subsection 21, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

The net capital gain of paragraphs "a", "b", "c", and "d" together shall not exceed seventeen thousand five hundred dollars for the tax year. Married taxpayers who elect separate

filing on a combined return for state tax purposes are treated as one taxpayer and the amount of net capital gain to be used to determine the total amount to be subtracted by them shall not exceed seventeen thousand five hundred dollars in the aggregate. Married taxpayers who file jointly or separately on a combined return shall prorate the seventeen thousand five hundred dollar limitation between them based on the ratio of each spouse's net capital gain to the total net capital gain of both spouses. In the case of married taxpayers filing separate returns, the amount of net capital gain to be used to determine the amount to be subtracted by each spouse shall not exceed eight thousand seven hundred fifty dollars. However, to the extent otherwise allowed, the deduction provided in this subsection is not allowed for purposes of computation of a net operating loss in section 422.9, subsection 3, and in computing the income for the taxable year or years for which a net operating loss is deducted.

Sec. 13. Section 422.16, subsection 1, unnumbered paragraph 3, Code 1993, is amended to read as follows:

For the purposes of this subsection, state income tax shall be withheld from pensions, annuities, other similar periodic payments, and other income payments of those persons whose primary residence is in Iowa in those circumstances in which those persons have federal income tax withheld from pensions, annuities, other similar periodic payments, and other income payments under sections 3402(o), 3402(p), 3402(s), 3405(a), ~~and~~ 3405(b), and 3405(c) of the Internal Revenue Code at a rate to be specified by the department.

Sec. 14. Section 422.16, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For the purposes of this subsection, state income tax at the rate of six percent shall be withheld from supplemental wages of employees in those circumstances in which the employer treats the supplemental wages as wholly separate from regular wages for purposes of withholding and federal income tax is withheld from the supplemental wages under section 3402(g) of the Internal Revenue Code.

Sec. 15. Section 422.16, subsection 4, Code 1993, is amended to read as follows:

4. Every withholding agent who fails to withhold or pay to the department any sums required by this chapter to be withheld and paid, shall be personally, individually, and corporately liable therefor to the state of Iowa, and any sum or sums withheld in accordance with the provisions of subsections 1 and 12 ~~hereof~~, shall be deemed to be held in trust for the state of Iowa. Notwithstanding sections 490A.601 and 490A.602, this subsection applies to a member or manager of a limited liability company.

Sec. 16. Section 422.21, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If married taxpayers file a joint return or file separately on a combined return in accordance with rules prescribed by the director, both spouses are jointly and severally liable for the total tax due on the return, except when one spouse is considered to be an innocent spouse under criteria established pursuant to section 6013(e) of the Internal Revenue Code.

Sec. 17. Section 422.30, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the director believes that the assessment or collection of taxes will be jeopardized by delay, the director may immediately make an assessment of the estimated amount of tax due, together with all interest, additional amounts, or penalties, as provided by law, ~~and demand payment thereof from the taxpayer. If such payment is not made, a~~ The director shall serve the taxpayer by regular mail at the taxpayer's last known address or in person, with a written notice of the amount of tax, interest, and penalty due, which notice may include a demand for immediate payment. Service of the notice by regular mail is complete upon mailing. A distress warrant may be issued or a lien filed against ~~such~~ the taxpayer immediately.

Sec. 18. Section 422.32, subsection 4, Code 1993, is amended to read as follows:

4. ~~The word "corporation"~~ "Corporation" includes joint stock companies, and associations organized for pecuniary profit, ~~other than limited liability companies,~~ and publicly traded partnerships and limited liability companies taxed as corporations under the Internal Revenue Code.

Sec. 19. Section 422.33, subsection 1A, Code Supplement 1993, is amended to read as follows:

1A. There is imposed upon each corporation exempt from the general business tax on corporations by section 422.34, ~~subsections~~ subsection 2 ~~through~~ 6, a tax at the rates in subsection 1 upon the state's apportioned share computed in accordance with subsections 2 and 3 of the unrelated business income computed in accordance with the Internal Revenue Code and with the adjustments set forth in section 422.35.

Sec. 20. Section 422.34, subsections 2 through 6, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

2. An organization described in section 501 of the Internal Revenue Code unless the exemption is denied under section 501, 502, 503, or 504 of the Internal Revenue Code.

Sec. 21. Section 422.42, subsection 15, unnumbered paragraph 2, Code 1993, is amended to read as follows:

"Services used in the processing of tangible personal property" includes the reconditioning or repairing of tangible personal property of the type normally sold in the regular course of the retailer's business and which is held for sale ~~upon which the gross receipts tax under this division or the use tax under chapter 423 will be paid when the tangible personal property is sold~~.

Sec. 22. Section 422.43, subsection 13, Code Supplement 1993, is amended to read as follows:

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

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

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

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

Sec. 23. Section 422.50, Code 1993, is amended to read as follows:

422.50 RECORDS REQUIRED.

It shall be the duty of every retailer required to make a report and pay any tax under this division, to preserve ~~such~~ those records of the gross proceeds of sales as the director may require

and it shall be the duty of every retailer to preserve for a period of five years all invoices and other records of goods, wares, ~~or~~ merchandise, or services purchased for resale; and all ~~such~~ these books, invoices, and other records shall be open to examination at any time by the department, and shall be made available within this state for ~~such~~ examination upon reasonable notice when the director ~~shall so order~~ orders.

Sec. 24. Section 422.53, subsection 3, Code 1993, is amended to read as follows:

3. The department shall grant and issue to each applicant a permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated. ~~It shall at all times be conspicuously displayed at the place for which issued.~~

Sec. 25. Section 423.4, subsection 1, Code 1993, is amended to read as follows:

1. Tangible personal property and enumerated services, the gross receipts from the sale of which are required to be included in the measure of the tax imposed by division IV of chapter 422, ~~and any amendments made or which may hereafter be made thereto~~ if that tax has been paid to the department or paid to the retailer. This exemption does not include vehicles subject to registration or subject only to the issuance of a certificate of title.

Sec. 26. Section 425.17, subsection 6, Code Supplement 1993, is amended to read as follows:

6. "Household income" means all income of the claimant and the claimant's spouse in a household and actual monetary contributions received from any other household member or nonmember living with the claimant during their respective twelve-month income tax accounting periods ending with or during the base year.

Sec. 27. Section 425.20, unnumbered paragraphs 1 and 2, Code 1993, are amended to read as follows:

A claim for reimbursement for rent constituting property taxes paid shall not be paid or allowed, unless the claim is ~~actually~~ filed with and in the possession of the department of revenue and finance on or before October 31 of the year following the base year.

A claim for credit for property taxes due shall not be paid or allowed unless the claim is ~~actually~~ filed with the county treasurer between January 1 and June 1, both dates inclusive, immediately preceding the fiscal year during which the property taxes are due ~~and, with the exception of a claim filed on behalf of a deceased claimant by the claimant's legal guardian, spouse, or attorney, or by the executor or administrator of the claimant's estate, contains an affidavit of the claimant's intent to occupy the homestead for six months or more during the fiscal year beginning in the calendar year in which the claim is filed~~. The county treasurer shall submit the claim to the director of revenue and finance on or before August 1 of each year.

Sec. 28. Section 425.26, subsection 8, Code 1993, is amended by striking the subsection.

Sec. 29. Section 425.28, Code 1993, is amended to read as follows:

425.28 WAIVER OF CONFIDENTIALITY.

A claimant shall expressly waive any right to confidentiality relating to all income tax information obtainable through the department of revenue and finance, including all information covered by sections 422.20 and 422.72. This waiver shall apply to information available to the county ~~or city assessor~~ treasurer who shall hold the information confidential except that it may be used as evidence to disallow the credit.

Sec. 30. Section 435.22, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

If the owner of the mobile home is an Iowa resident, has attained the age of ~~eighteen~~ twenty-three years on or before December 31 of the base year, and has an income when included with that of a spouse which is less than six thousand dollars per year, the annual tax shall not be imposed on the mobile home. If the income is six thousand dollars or more but less than fourteen thousand dollars, the annual tax shall be computed as follows:

Sec. 31. Section 450.4, subsection 2, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. When the property passes for a charitable, educational, or religious purpose as defined in sections 170(c) and 2055 of the Internal Revenue Code.

Sec. 32. Section 450.12, subsection 1, paragraph a, Code 1993, is amended to read as follows:

a. The debts owing by the decedent at the time of death, the local and state taxes accrued before the decedent's death, the federal estate tax and federal taxes owing by the decedent, a reasonable sum for funeral expenses, the allowance for surviving spouse and minor children granted by the probate court or its judge, court costs, the costs of appraisement made for the purpose of assessing the inheritance tax, the fee of personal representatives as allowed by order of court, the amount paid by the personal representatives for a bond, the attorney's fee ~~in a reasonable amount to be~~ as determined pursuant to sections 633.197, 633.198, and 633.199 and approved by the court for the probate proceedings in the estate, the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses.

Sec. 33. Section 450.53, Code 1993, is amended to read as follows:

450.53 DUTY ~~OF PERSONAL REPRESENTATIVES~~ TO PAY TAX — PENALTIES.

1. All personal representatives, except guardians and conservators, and other persons charged with the management or settlement of any estate or trust from which a tax is due under this chapter, shall file an inheritance tax return, within the time limits set by section 450.6, with a copy of any federal estate tax return and other documents required by the director which may reasonably tend to prove the amount of tax due, and at the time of filing, shall pay to the department of revenue and finance the amount of the tax due from any devisee, grantee, donee, heir, or beneficiary of the decedent, except in cases where payment of the tax is deferred until the determination of a prior estate~~, in which cases the~~. The owner of the future interest shall file a supplemental inheritance tax return and pay to the department of revenue and finance the tax due within the time limits set in this chapter. The inheritance tax returns shall be in the form prescribed by the director.

2. A person in possession of assets to be reported for purposes of taxation, including a personal representative or trustee, who willfully makes a false or fraudulent return, or willfully fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law, is guilty of a fraudulent practice.

3. A person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax, is guilty of an aggravated misdemeanor.

4. The jurisdiction of any offense as defined in this section is in the county of the residence of the decedent at the time of death. If the decedent is a nonresident of the state, jurisdiction is in any county in which property subject to the tax is located.

5. A prosecution for any offense defined in this section shall be commenced not later than six years following the commission of the offense.

Sec. 34. Section 451.12, Code 1993, is amended to read as follows:

451.12 APPLICABLE STATUTES — PENALTIES.

All the provisions of chapter 450 with respect to the lien provisions of section 450.7, and the determination, imposition, payment and collection of the tax imposed under that chapter, including penalty and interest upon delinquent taxes and the confidentiality of the tax return, are applicable to this chapter, except as they are in conflict with this chapter. The penalty provisions set out in section 450.53 shall apply to a person in possession of assets to be reported for purposes of taxation who willfully makes a false or fraudulent return or willfully fails to pay the tax, supply the information, make, sign, or file the required return within the time required by law or a person who willfully attempts in any manner to evade taxes imposed by this chapter or avoid payment of the tax. The director of revenue and finance shall adopt rules necessary for the enforcement of this chapter.

Sec. 35. Section 452A.4, unnumbered paragraph 6, Code 1993, is amended to read as follows:

The license shall not be assignable~~,~~ and shall be valid only for the distributor in whose name it is issued~~, and shall be displayed conspicuously in the principal place of business of the distributor in this state~~.

Sec. 36. Section 452A.8, subsection 7, Code 1993, is amended to read as follows:

7. The sum of the tax due under subsections 5 and 6 shall be the amount of motor fuel tax in dollars and cents due from the distributor for the next preceding calendar month. Any ~~outstanding~~ credit ~~memoranda issued~~ calculated by the ~~department to the~~ distributor may be applied against the amount due.

Sec. 37. Section 452A.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A distributor, dealer or user licensed under this chapter who has received motor fuel or has paid the tax on motor fuel or special fuel is entitled to a ~~memorandum of~~ credit or refund, when the fuel is used for any purpose other than as fuel for propelling motor vehicles or in watercraft or aircraft, or, while owned by the licensee, is lost or destroyed through accountable leakage or to fire, accident, lightning, flood, storm, act of war or public enemy, or other like cause. A ~~memorandum of~~ credit shall be allowed ~~against subsequent liability~~ under this chapter upon application to the department supported by proof as the director prescribes by rule. If the licensee is no longer engaged in activity for which the license was issued, the department shall refund the appropriate amount upon receipt of an application for refund as provided by the department. Credits and refunds are subject to the following conditions:

Sec. 38. Section 453A.13, subsection 10, Code 1993, is amended by striking the subsection.

Sec. 39. Section 453A.44, subsection 9, Code 1993, is amended by striking the subsection.

Sec. 40. Section 453B.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

All assessments of taxes made pursuant to this chapter shall be considered jeopardy assessments or collections as provided in section 422.30. The director shall assess a tax, interest, and applicable penalties based on knowledge or information available to the director; ~~mail to~~ serve the taxpayer by regular mail at the taxpayer's last known address or ~~serve~~ in person, a written notice of the amount of tax, interest, and penalty~~; demand its immediate payment; and, if payment is not immediately made,~~ due, which notice may include a demand for immediate payment; and immediately proceed to collect the tax, interest, and penalty by any method prescribed in section 422.30. The period for examination, determination of amount of tax owed, and assessment is unlimited. Service of the notice by regular mail is complete upon mailing.

Sec. 41. Section 626.29, Code Supplement 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~~ taxes administered by or debts to be collected by the department of revenue and finance, 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. 42. Section 633.272, Code 1993, is amended to read as follows:

633.272 PARTIAL INTESTACY.

If part but not all of the estate of a decedent is validly disposed of by will, the part not disposed of by will shall be distributed as provided herein for intestate estates. If the testator left a surviving spouse, and the spouse does not elect to take against the will, ~~such~~ the spouse shall

receive, in addition to the property given to the spouse by the will, ~~one-third~~ all of the intestate property, ~~and that one-third~~ which shall be subject to the payment of its proportionate share of debts and charges against the estate.

Sec. 43. 1994 Iowa Acts, House File 2180,* section 9, subsection 2, is amended to read as follows:

2. For purposes of this section, "improvements" include new construction and rehabilitation of and additions to existing structures. The exemption shall apply to all taxing districts in which the real property is located.

Sec. 44. 1994 Iowa Acts, House File 2180,* section 12, is amended to read as follows:

SEC. 12. NEW SECTION. 15.335 RESEARCH ACTIVITIES CREDIT.

An eligible business may claim a corporate tax credit for increasing research activities in this state during the period the eligible business is participating in the program. 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. The credit allowed in this section is in addition to the credit authorized in section 422.33, subsection 5. If the eligible business is a partnership, subchapter S corporation, limited liability company, or estate or trust electing to have the income taxed directly to the individual, an individual may claim the tax credit allowed. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of the partnership, subchapter S corporation, limited liability company, or estate or trust. For purposes of this section, "qualifying expenditures for increasing research activities" means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under section 41 of the Internal Revenue Code in effect on January 1, 1994.

A credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until depleted, whichever comes first.

Sec. 45. Sections 8 and 15 of this Act apply retroactively to July 1, 1993.

Sec. 46. Section 12 of this Act applies retroactively to January 1, 1994, for net operating losses in tax years beginning on or after that date.

Sec. 47. Section 13 of this Act applies retroactively to January 1, 1994, for distributions from qualified pension plans made on or after that date.

Sec. 48. Sections 14 and 16 of this Act apply retroactively to January 1, 1994, for tax years beginning on or after that date.

Sec. 49. Section 32 of this Act applies to the estates of decedents dying on or after July 1, 1994.

Sec. 50. Sections 26, 27, and 30 of this Act take effect January 1, 1995, for claims filed on or after that date.

Approved May 10, 1994

*Chapter 1008 herein

CHAPTER 1166

INTERNAL REVENUE CODE REFERENCES AND INCOME TAX PROVISIONS

S.F. 2215

AN ACT updating the Iowa Code references to the federal Internal Revenue Code, except those references to the taxation of social security benefits, striking a provision for a moving expense deduction, striking state provisions for disallowing private club expenses, 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 Supplement 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, ~~1993~~ 1994, whichever is applicable.

Sec. 2. Section 422.7, subsection 13, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

13. Subtract, to the extent included, the amount of additional social security benefits taxable under the Internal Revenue Code for tax years beginning on or after January 1, 1994. The amount of social security benefits taxable as provided in section 86 of the Internal Revenue Code, as amended up to and including January 1, 1993, continues to apply for state income tax purposes for tax years beginning on or after January 1, 1994. Married taxpayers, who file a joint federal income tax return and who elect to file separate returns or who elect separate filing on a combined return for state income tax purposes, shall allocate between the spouses the amount of benefits subtracted from net income in the ratio of the social security benefits received by each spouse to the total of these benefits received by both spouses.

Sec. 3. Section 422.7, subsection 25, Code Supplement 1993, is amended by striking the subsection.

Sec. 4. Section 422.9, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The total of contributions, interest, taxes, medical expense, nonbusiness losses, and miscellaneous expenses ~~and moving expenses~~ deductible for federal income tax purposes under the Internal Revenue Code, with the following adjustments:

Sec. 5. Section 422.9, subsection 2, paragraph g, Code 1993, is amended by striking the paragraph.

Sec. 6. Section 422.9, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. If the election under section ~~172(b)(3)(C)~~ 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward fifteen taxable years.

Sec. 7. Section 422.10, unnumbered paragraph 1, Code Supplement 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, ~~1993~~ 1994.

Sec. 8. Section 422.33, subsection 5, unnumbered paragraph 1, Code Supplement 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, ~~1993~~ 1994.

Sec. 9. Section 422.35, subsection 11, paragraphs c and e, Code 1993, are amended to read as follows:

c. If the election under section ~~172(b)(3)(C)~~ 172(b)(3) of the Internal Revenue Code is made, the Iowa net operating loss shall be carried forward fifteen taxable years.

e. The limitations on net operating loss carryback and carryforward under sections ~~172(b)(1)(M)~~ 172(b)(1)(E) and ~~172(m)~~ 172(h) of the Internal Revenue Code shall apply.

Sec. 10. Section 422.35, subsection 14, Code 1993, is amended by striking the subsection.

Sec. 11. Sections 1, 7, and 8 of this Act apply retroactively to January 1, 1993, for tax years beginning on or after that date.

Sec. 12. Sections 2, 3, 4, 5, and 10 of this Act apply retroactively to January 1, 1994, for tax years beginning on or after that date.

Sec. 13. This Act, being deemed of immediate importance, takes effect upon enactment.

Approved May 10, 1994

CHAPTER 1167

UNIFORM COMMERCIAL CODE — NEGOTIABLE INSTRUMENTS — BANK DEPOSITS AND COLLECTIONS

S.F. 2279

AN ACT amending the uniform commercial code relating to negotiable instruments, and bank deposits and collections, and repealing sections, and providing an effective date.

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

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

5. In making or noting a protest of a negotiable instrument, the notarial officer must determine ~~the matters set forth~~ whether there is evidence of dishonor as provided in section ~~554.3509~~ 554.3505.

Sec. 2. Section 533.43, subsection 3, Code 1993, is amended to read as follows:

3. The share draft is payable to a member of the credit union, or to a member of the family of the issuer of the share draft, or to a business in which the issuer of the share draft has an interest. However, the exception contained in this subsection does not apply to any person

referred to in this subsection if the person is a holder in due course, as provided in chapter 554, article 3; ~~and with respect to a share draft which is issued prior to the expiration of one year after April 13, 1979, the person shall not be denied the rights of a holder in due course of the share draft solely on the grounds that the share draft fails to meet the requirements of section 554.3104, subsection 1, paragraph "d"~~.

Sec. 3. Section 537.3211, Code 1993, is amended to read as follows:

537.3211 NOTICE OF CONSUMER PAPER.

Every note which is a negotiable instrument ~~pursuant to~~ as provided in section 554.3104 taken in a consumer credit transaction, if the writing requires or provides for a signature of the consumer, shall conspicuously show on its face the following: "This is a consumer credit transaction."

Sec. 4. Section 539.1, Code 1993, is amended to read as follows:

539.1 ASSIGNMENT OF NONNEGOTIABLE INSTRUMENTS.

Bonds, due bills, and all instruments by which the maker promises to pay another, without words of negotiability, a sum of money, or by which the maker promises to pay a sum of money in property or labor, or to pay or deliver any property or labor, or acknowledges any money, labor, or property to be due, are assignable by endorsement on the instrument, or by other writing. The assignee, including a person who takes assignment for collection in the regular course of business, has a right of action on them in the assignee's own name, subject to any defense or counterclaim which the maker or debtor had against an assignor of the instrument before notice of the assignment. In case of conflict between this section and ~~Uniform Commercial Code,~~ sections ~~554.3805,~~ 554.5116 ~~or~~ and 554.9318, ~~those~~ sections 554.5116 and 554.9318 control.

Sec. 5. Section 539.2, Code 1993, is amended to read as follows:

539.2 ASSIGNMENT PROHIBITED BY INSTRUMENT.

When by the terms of an instrument its assignment is prohibited, an assignment thereof shall nevertheless be valid, but the maker may make use of any defense or counterclaim against the assignee which the maker may have against any assignor thereof before notice of such assignment is given to the maker in writing. In case of conflict between this section and ~~Uniform Commercial Code,~~ sections ~~554.3805,~~ 554.5116 ~~or~~ and 554.9318, ~~those~~ sections 554.5116 and 554.9318 control.

Sec. 6. Section 554.1201, subsections 20, 24, and 43, Code 1993, are amended to read as follows:

20. "Holder" ~~means a person who is in possession of a document of title or an instrument or a certificated investment security drawn, issued, or endorsed to that person or to that person's order or to bearer or in blank~~ with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder" with respect to a document of title means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

24. "Money" means a medium of exchange authorized or adopted by a domestic or foreign government ~~as a part of its currency~~ and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

43. "Unauthorized" signature ~~or endorsement~~ means one made without actual, implied, or apparent authority and includes a forgery.

Sec. 7. Section 554.1207, Code 1993, is amended to read as follows:

554.1207 PERFORMANCE OR ACCEPTANCE UNDER RESERVATION OF RIGHTS.

1. A party who, with explicit reservation of rights, performs or promises performance or assents to performance in a manner demanded or offered by the other party does not thereby prejudice the rights reserved. Such words as "without prejudice", "under protest" or the like are sufficient.

2. Subsection 1 does not apply to an accord and satisfaction.

Sec. 8. Section 554.2103, subsection 3, Code 1993, is amended to read as follows:

3. The following definitions in other Articles apply to this Article:

"Check".	Section 554.3104.
"Consignee".	Section 554.7102.
"Consignor".	Section 554.7102.
"Consumer goods".	Section 554.9109.
"Dishonor".	Section ~~554.3507~~ 554.3502.
"Draft".	Section 554.3104.

Sec. 9. Section 554.2511, subsection 3, Code 1993, is amended to read as follows:

3. Subject to the provisions of this chapter on the effect of an instrument on an obligation (section ~~554.3802~~ 554.3310), payment by check is conditional and is defeated as between the parties by dishonor of the check on due presentment.

UNIFORM COMMERCIAL CODE
ARTICLE 3 — NEGOTIABLE INSTRUMENTS
PART 1
GENERAL PROVISIONS AND DEFINITIONS

Sec. 10. NEW SECTION. 554.3101 SHORT TITLE. This Article may be cited as Uniform Commercial Code — Negotiable Instruments.

Sec. 11. NEW SECTION. 554.3102 SUBJECT MATTER.

1. This Article applies to negotiable instruments. It does not apply to money, to payment orders governed by Article 8,* or to securities governed by Article 12.**

2. If there is conflict between this Article and Article 9 or 12,*** Articles 9 and 12*** govern.

3. Regulations of the Board of Governors of the Federal Reserve System and operating circulars of the Federal Reserve Banks supersede any inconsistent provision of this Article to the extent of the inconsistency.

Sec. 12. NEW SECTION. 554.3103 DEFINITIONS.

1. In this Article:

a. "Acceptor" means a drawee who has accepted a draft.

b. "Drawee" means a person ordered in a draft to make payment.

c. "Drawer" means a person who signs or is identified in a draft as a person ordering payment.

d. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

e. "Maker" means a person who signs or is identified in a note as a person undertaking to pay.

f. "Order" means a written instruction to pay money signed by the person giving the instruction. The instruction may be addressed to any person, including the person giving the instruction, or to one or more persons jointly or in the alternative but not in succession. An authorization to pay is not an order unless the person authorized to pay is also instructed to pay.

g. "Ordinary care" in the case of a person engaged in business means observance of reasonable commercial standards, prevailing in the area in which the person is located, with respect to the business in which the person is engaged. In the case of a bank that takes an instrument for processing for collection or payment by automated means, reasonable commercial standards do not require the bank to examine the instrument if the failure to examine does not violate the bank's prescribed procedures and the bank's procedures do not vary unreasonably from general banking usage not disapproved by this Article or Article 4.

h. "Party" means a party to an instrument.

i. "Promise" means a written undertaking to pay money signed by the person undertaking to pay. An acknowledgment of an obligation by the obligor is not a promise unless the obligor also undertakes to pay the obligation.

j. "Prove" with respect to a fact means to meet the burden of establishing the fact (section 554.1201, subsection 8).

*Article 12 probably intended

**Article 8 probably intended

***Article 4 probably intended

k. "Remitter" means a person who purchases an instrument from its issuer if the instrument is payable to an identified person other than the purchaser.

2. Other definitions applying to this Article and the sections in which they appear are:

"Acceptance".	Section 554.3409.
"Accommodated party".	Section 554.3419.
"Accommodation party".	Section 554.3419.
"Alteration".	Section 554.3407.
"Anomalous endorsement".	Section 554.3205.
"Blank endorsement".	Section 554.3205.
"Cashier's check".	Section 554.3104.
"Certificate of deposit".	Section 554.3104.
"Certified check".	Section 554.3409.
"Check".	Section 554.3104.
"Consideration".	Section 554.3303.
"Draft".	Section 554.3104.
"Holder in due course".	Section 554.3302.
"Incomplete instrument".	Section 554.3115.
"Endorsement".	Section 554.3204.
"Endorser".	Section 554.3204.
"Instrument".	Section 554.3104.
"Issue".	Section 554.3105.
"Issuer".	Section 554.3105.
"Negotiable instrument".	Section 554.3104.
"Negotiation".	Section 554.3201.
"Note".	Section 554.3104.
"Payable at a definite time".	Section 554.3108.
"Payable on demand".	Section 554.3108.
"Payable to bearer".	Section 554.3109.
"Payable to order".	Section 554.3109.
"Payment".	Section 554.3602.
"Person entitled to enforce".	Section 554.3301.
"Presentment".	Section 554.3501.
"Reacquisition".	Section 554.3207.
"Special endorsement".	Section 554.3205.
"Teller's check".	Section 554.3104.
"Transfer of instrument".	Section 554.3203.
"Traveler's check".	Section 554.3104.
"Value".	Section 554.3303.

3. The following definitions in other Articles apply to this Article:

"Bank".	Section 554.4105.
"Banking day".	Section 554.4104.
"Clearing house".	Section 554.4104.
"Collecting bank".	Section 554.4105.
"Depositary bank".	Section 554.4105.
"Documentary draft".	Section 554.4104.
"Intermediary bank".	Section 554.4105.
"Item".	Section 554.4104.
"Payor bank".	Section 554.4105.
"Suspends payments".	Section 554.4104.

4. In addition, Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 13. NEW SECTION. 554.3104 NEGOTIABLE INSTRUMENT.

1. Except as provided in subsections 3 and 4, "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

a. is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

b. is payable on demand or at a definite time; and

c. does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor.

2. "Instrument" means a negotiable instrument.

3. An order that meets all of the requirements of subsection 1, except paragraph "a", and otherwise falls within the definition of "check" in subsection 6 is a negotiable instrument and a check.

4. A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this Article.

5. An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft," a person entitled to enforce the instrument may treat it as either.

6. "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank or (ii) a cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order."

7. "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

8. "Teller's check" means a draft drawn by a bank (i) on another bank, or (ii) payable at or through a bank.

9. "Traveler's check" means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term "traveler's check" or by a substantially similar term, and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

10. "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank.

Sec. 14. NEW SECTION. 554.3105 ISSUE OF INSTRUMENT.

1. "Issue" means the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person.

2. An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

3. "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument.

Sec. 15. NEW SECTION. 554.3106 UNCONDITIONAL PROMISE OR ORDER.

1. Except as provided in this section, for the purposes of section 554.3104, subsection 1, a promise or order is unconditional unless it states (i) an express condition to payment, (ii) that the promise or order is subject to or governed by another writing, or (iii) that rights or obligations with respect to the promise or order are stated in another writing. A reference to another writing does not of itself make the promise or order conditional.

2. A promise or order is not made conditional (i) by a reference to another writing for a statement of rights with respect to collateral, prepayment, or acceleration, or (ii) because payment is limited to resort to a particular fund or source.

3. If a promise or order requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the promise or order, the condition does not make the promise or order conditional for the purposes of section 554.3104, subsection 1. If the person

whose specimen signature appears on an instrument fails to countersign the instrument, the failure to countersign is a defense to the obligation of the issuer, but the failure does not prevent a transferee of the instrument from becoming a holder of the instrument.

4. If a promise or order at the time it is issued or first comes into possession of a holder contains a statement, required by applicable statutory or administrative law, to the effect that the rights of a holder or transferee are subject to claims or defenses that the issuer could assert against the original payee, the promise or order is not thereby made conditional for the purposes of section 554.3104, subsection 1; but if the promise or order is an instrument, there cannot be a holder in due course of the instrument.

Sec. 16. NEW SECTION. 554.3107 INSTRUMENT PAYABLE IN FOREIGN MONEY.

Unless the instrument otherwise provides, an instrument that states the amount payable in foreign money may be paid in the foreign money or in an equivalent amount in dollars calculated by using the current bank-offered spot rate at the place of payment for the purchase of dollars on the day on which the instrument is paid.

Sec. 17. NEW SECTION. 554.3108 PAYABLE ON DEMAND OR AT DEFINITE TIME.

1. A promise or order is "payable on demand" if it (i) states that it is payable on demand or at sight, or otherwise indicates that it is payable at the will of the holder, or (ii) does not state any time of payment.

2. A promise or order is "payable at a definite time" if it is payable on elapse of a definite period of time after sight or acceptance or at a fixed date or dates or at a time or times readily ascertainable at the time the promise or order is issued, subject to rights of (i) prepayment, (ii) acceleration, (iii) extension at the option of the holder, or (iv) extension to a further definite time at the option of the maker or acceptor or automatically upon or after a specified act or event.

3. If an instrument, payable at a fixed date, is also payable upon demand made before the fixed date, the instrument is payable on demand until the fixed date and, if demand for payment is not made before that date, becomes payable at a definite time on the fixed date.

Sec. 18. NEW SECTION. 554.3109 PAYABLE TO BEARER OR TO ORDER.

1. A promise or order is payable to bearer if it:

a. states that it is payable to bearer or to the order of bearer or otherwise indicates that the person in possession of the promise or order is entitled to payment;

b. does not state a payee; or

c. states that it is payable to or to the order of cash or otherwise indicates that it is not payable to an identified person.

2. A promise or order that is not payable to bearer is payable to order if it is payable (i) to the order of an identified person or (ii) to an identified person or order. A promise or order that is payable to order is payable to the identified person.

3. An instrument payable to bearer may become payable to an identified person if it is specially endorsed pursuant to section 554.3205, subsection 1. An instrument payable to an identified person may become payable to bearer if it is endorsed in blank pursuant to section 554.3205, subsection 2.

Sec. 19. NEW SECTION. 554.3110 IDENTIFICATION OF PERSON TO WHOM INSTRUMENT IS PAYABLE.

1. The person to whom an instrument is initially payable is determined by the intent of the person, whether or not authorized, signing as, or in the name or behalf of, the issuer of the instrument. The instrument is payable to the person intended by the signer even if that person is identified in the instrument by a name or other identification that is not that of the intended person. If more than one person signs in the name or behalf of the issuer of an instrument and all the signers do not intend the same person as payee, the instrument is payable to any person intended by one or more of the signers.

2. If the signature of the issuer of an instrument is made by automated means, such as a check-writing machine, the payee of the instrument is determined by the intent of the person who supplied the name or identification of the payee, whether or not authorized to do so.

3. A person to whom an instrument is payable may be identified in any way, including by name, identifying number, office, or account number. For the purpose of determining the holder of an instrument, the following rules apply:

a. if an instrument is payable to an account and the account is identified only by number, the instrument is payable to the person to whom the account is payable. If an instrument is payable to an account identified by number and by the name of a person, the instrument is payable to the named person, whether or not that person is the owner of the account identified by number.

b. if an instrument is payable to:

(1) a trust, an estate, or a person described as trustee or representative of a trust or estate, the instrument is payable to the trustee, the representative, or a successor of either, whether or not the beneficiary or estate is also named;

(2) a person described as agent or similar representative of a named or identified person, the instrument is payable to the represented person, the representative, or a successor of the representative;

(3) a fund or organization that is not a legal entity, the instrument is payable to a representative of the members of the fund or organization; or

(4) an office or to a person described as holding an office, the instrument is payable to the named person, the incumbent of the office, or a successor to the incumbent.

4. If an instrument is payable to two or more persons alternatively, it is payable to any of them and may be negotiated, discharged, or enforced by any or all of them in possession of the instrument. If an instrument is payable to two or more persons not alternatively, it is payable to all of them and may be negotiated, discharged, or enforced only by all of them. If an instrument payable to two or more persons is ambiguous as to whether it is payable to the persons alternatively, the instrument is payable to the persons alternatively.

Sec. 20. NEW SECTION. 554.3111 PLACE OF PAYMENT.

Except as otherwise provided for items in Article 4, an instrument is payable at the place of payment stated in the instrument. If no place of payment is stated, an instrument is payable at the address of the drawee or maker stated in the instrument. If no address is stated, the place of payment is the place of business of the drawee or maker. If a drawee or maker has more than one place of business, the place of payment is any place of business of the drawee or maker chosen by the person entitled to enforce the instrument. If the drawee or maker has no place of business, the place of payment is the residence of the drawee or maker.

Sec. 21. NEW SECTION. 554.3112 INTEREST.

1. Unless otherwise provided in the instrument, (i) an instrument is not payable with interest, and (ii) interest on an interest-bearing instrument is payable from the date of the instrument.

2. Interest may be stated in an instrument as a fixed or variable amount of money or it may be expressed as a fixed or variable rate or rates. The amount or rate of interest may be stated or described in the instrument in any manner and may require reference to information not contained in the instrument. If an instrument provides for interest, but the amount of interest payable cannot be ascertained from the description, interest is payable at the judgment rate in effect at the place of payment of the instrument and at the time interest first accrues.

Sec. 22. NEW SECTION. 554.3113 DATE OF INSTRUMENT.

1. An instrument may be antedated or postdated. The date stated determines the time of payment if the instrument is payable at a fixed period after date. Except as provided in section 554.4401, subsection 3, an instrument payable on demand is not payable before the date of the instrument.

2. If an instrument is undated, its date is the date of its issue or, in the case of an unissued instrument, the date it first comes into possession of a holder.

Sec. 23. NEW SECTION. 554.3114 CONTRADICTORY TERMS OF INSTRUMENT.

If an instrument contains contradictory terms, typewritten terms prevail over printed terms, handwritten terms prevail over both, and words prevail over numbers.

Sec. 24. NEW SECTION. 554.3115 INCOMPLETE INSTRUMENT.

1. "Incomplete instrument" means a signed writing, whether or not issued by the signer, the contents of which show at the time of signing that it is incomplete but that the signer intended it to be completed by the addition of words or numbers.

2. Subject to subsection 3, if an incomplete instrument is an instrument under section 554.3104, it may be enforced according to its terms if it is not completed, or according to its terms as augmented by completion. If an incomplete instrument is not an instrument under section 554.3104, but, after completion, the requirements of section 554.3104 are met, the instrument may be enforced according to its terms as augmented by completion.

3. If words or numbers are added to an incomplete instrument without authority of the signer, there is an alteration of the incomplete instrument under section 554.3407.

4. The burden of establishing that words or numbers were added to an incomplete instrument without authority of the signer is on the person asserting the lack of authority.

Sec. 25. NEW SECTION. 554.3116 JOINT AND SEVERAL LIABILITY — CONTRIBUTION.

1. Except as otherwise provided in the instrument, two or more persons who have the same liability on an instrument as makers, drawers, acceptors, endorsers who endorse as joint payees, or anomalous endorsers are jointly and severally liable in the capacity in which they sign.

2. Except as provided in section 554.3419, subsection 5, or by agreement of the affected parties, a party having joint and several liability who pays the instrument is entitled to receive from any party having the same joint and several liability contribution in accordance with applicable law.

3. Discharge of one party having joint and several liability by a person entitled to enforce the instrument does not affect the right under subsection 2 of a party having the same joint and several liability to receive contribution from the party discharged.

Sec. 26. NEW SECTION. 554.3117 OTHER AGREEMENTS AFFECTING INSTRUMENT.

Subject to applicable law regarding exclusion of proof of contemporaneous or previous agreements, the obligation of a party to an instrument to pay the instrument may be modified, supplemented, or nullified by a separate agreement of the obligor and a person entitled to enforce the instrument, if the instrument is issued or the obligation is incurred in reliance on the agreement or as part of the same transaction giving rise to the agreement. To the extent an obligation is modified, supplemented, or nullified by an agreement under this section, the agreement is a defense to the obligation.

Sec. 27. NEW SECTION. 554.3118 ACCRUAL OF CAUSE OF ACTION.

1. A cause of action against a maker or an acceptor accrues

a. In the case of a time instrument on the day after maturity;

b. In the case of a demand instrument upon its date or, if no date is stated, on the date of issue.

2. A cause of action against the obligor of a demand or time certificate of deposit accrues upon demand, but demand on a time certificate may not be made until on or after the date of maturity.

3. A cause of action against a drawer of a draft or an endorser of any instrument accrues upon demand following dishonor of the instrument. Notice of dishonor is a demand.

4. Unless an instrument provides otherwise, interest runs at the rate provided by law for a judgment

a. In the case of a maker, acceptor or other primary obligor of a demand instrument, from the date of demand;

b. In all other cases from the date of accrual of the cause of action.

Sec. 28. NEW SECTION. 554.3119 NOTICE OF RIGHT TO DEFEND ACTION.

In an action for breach of an obligation for which a third person is answerable over pursuant to this Article or Article 4, the defendant may give the third person written notice of the

litigation, and the person notified may then give similar notice to any other person who is answerable over. If the notice states (i) that the person notified may come in and defend and (ii) that failure to do so will bind the person notified in an action later brought by the person giving the notice as to any determination of fact common to the two litigations, the person notified is so bound unless after seasonable receipt of the notice the person notified does come in and defend.

PART 2
NEGOTIATION, TRANSFER, AND ENDORSEMENT

Sec. 29. NEW SECTION. 554.3201 NEGOTIATION.

1. "Negotiation" means a transfer of possession, whether voluntary or involuntary, of an instrument by a person other than the issuer to a person who thereby becomes its holder.

2. Except for negotiation by a remitter, if an instrument is payable to an identified person, negotiation requires transfer of possession of the instrument and its endorsement by the holder. If an instrument is payable to bearer, it may be negotiated by transfer of possession alone.

Sec. 30. NEW SECTION. 554.3202 NEGOTIATION SUBJECT TO RESCISSION.

1. Negotiation is effective even if obtained (i) from an infant, a corporation exceeding its powers, or a person without capacity, (ii) by fraud, duress, or mistake, or (iii) in breach of duty or as part of an illegal transaction.

2. To the extent permitted by other law, negotiation may be rescinded or may be subject to other remedies, but those remedies may not be asserted against a subsequent holder in due course or a person paying the instrument in good faith and without knowledge of facts that are a basis for rescission or other remedy.

Sec. 31. NEW SECTION. 554.3203 TRANSFER OF INSTRUMENT — RIGHTS ACQUIRED BY TRANSFER.

1. An instrument is transferred when it is delivered by a person other than its issuer for the purpose of giving to the person receiving delivery the right to enforce the instrument.

2. Transfer of an instrument, whether or not the transfer is a negotiation, vests in the transferee any right of the transferor to enforce the instrument, including any right as a holder in due course, but the transferee cannot acquire rights of a holder in due course by a transfer, directly or indirectly, from a holder in due course if the transferee engaged in fraud or illegality affecting the instrument.

3. Unless otherwise agreed, if an instrument is transferred for value and the transferee does not become a holder because of lack of endorsement by the transferor, the transferee has a specifically enforceable right to the unqualified endorsement of the transferor, but negotiation of the instrument does not occur until the endorsement is made.

4. If a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The transferee obtains no rights under this Article and has only the rights of a partial assignee.

Sec. 32. NEW SECTION. 554.3204 ENDORSEMENT.

1. "Endorsement" means a signature, other than that of a signer as maker, drawer, or acceptor, that alone or accompanied by other words is made on an instrument for the purpose of (i) negotiating the instrument, (ii) restricting payment of the instrument, or (iii) incurring endorser's liability on the instrument, but regardless of the intent of the signer, a signature and its accompanying words is an endorsement unless the accompanying words, terms of the instrument, place of the signature, or other circumstances unambiguously indicate that the signature was made for a purpose other than endorsement. For the purpose of determining whether a signature is made on an instrument, a paper affixed to the instrument is a part of the instrument.

2. "Endorser" means a person who makes an endorsement.

3. For the purpose of determining whether the transferee of an instrument is a holder, an endorsement that transfers a security interest in the instrument is effective as an unqualified endorsement of the instrument.

4. If an instrument is payable to a holder under a name that is not the name of the holder, endorsement may be made by the holder in the name stated in the instrument or in the holder's name or both, but signature in both names may be required by a person paying or taking the instrument for value or collection.

Sec. 33. NEW SECTION. 554.3205 SPECIAL ENDORSEMENT — BLANK ENDORSEMENT — ANOMALOUS ENDORSEMENT.

1. If an endorsement is made by the holder of an instrument, whether payable to an identified person or payable to bearer, and the endorsement identifies a person to whom it makes the instrument payable, it is a "special endorsement." When specially endorsed, an instrument becomes payable to the identified person and may be negotiated only by the endorsement of that person. The principles stated in section 554.3110 apply to special endorsements.

2. If an endorsement is made by the holder of an instrument and it is not a special endorsement, it is a "blank endorsement." When endorsed in blank, an instrument becomes payable to bearer and may be negotiated by transfer of possession alone until specially endorsed.

3. The holder may convert a blank endorsement that consists only of a signature into a special endorsement by writing, above the signature of the endorser, words identifying the person to whom the instrument is made payable.

4. "Anomalous endorsement" means an endorsement made by a person who is not the holder of the instrument. An anomalous endorsement does not affect the manner in which the instrument may be negotiated.

Sec. 34. NEW SECTION. 554.3206 RESTRICTIVE ENDORSEMENT.

1. An endorsement limiting payment to a particular person or otherwise prohibiting further transfer or negotiation of the instrument is not effective to prevent further transfer or negotiation of the instrument.

2. An endorsement stating a condition to the right of the endorsee to receive payment does not affect the right of the endorsee to enforce the instrument. A person paying the instrument or taking it for value or collection may disregard the condition, and the rights and liabilities of that person are not affected by whether the condition has been fulfilled.

3. If an instrument bears an endorsement (i) described in section 554.4201, subsection 2, or (ii) in blank or to a particular bank using the words "for deposit," "for collection," or other words indicating a purpose of having the instrument collected by a bank for the endorser or for a particular account, the following rules apply:

a. A person, other than a bank, who purchases the instrument when so endorsed converts the instrument unless the amount paid for the instrument is received by the endorser or applied consistently with the endorsement.

b. A depositary bank that purchases the instrument or takes it for collection when so endorsed converts the instrument unless the amount paid by the bank with respect to the instrument is received by the endorser or applied consistently with the endorsement.

c. A payor bank that is also the depositary bank or that takes the instrument for immediate payment over the counter from a person other than a collecting bank converts the instrument unless the proceeds of the instrument are received by the endorser or applied consistently with the endorsement.

d. Except as otherwise provided in paragraph c, a payor bank or intermediary bank may disregard the endorsement and is not liable if the proceeds of the instrument are not received by the endorser or applied consistently with the endorsement.

4. Except for an endorsement covered by subsection 3, if an instrument bears an endorsement using words to the effect that payment is to be made to the endorsee as agent, trustee, or other fiduciary for the benefit of the endorser or another person, the following rules apply:

a. Unless there is notice of breach of fiduciary duty as provided in section 554.3307, a person who purchases the instrument from the endorsee or takes the instrument from the endorsee for collection or payment may pay the proceeds of payment or the value given for the instrument to the endorsee without regard to whether the endorsee violates a fiduciary duty to the endorser.

b. A subsequent transferee of the instrument or person who pays the instrument is neither given notice nor otherwise affected by the restriction in the endorsement unless the transferee or payor knows that the fiduciary dealt with the instrument or its proceeds in breach of fiduciary duty.

5. The presence on an instrument of an endorsement to which this section applies does not prevent a purchaser of the instrument from becoming a holder in due course of the instrument unless the purchaser is a converter under subsection 3 or has notice or knowledge of breach of fiduciary duty as stated in subsection 4.

6. In an action to enforce the obligation of a party to pay the instrument, the obligor has a defense if payment would violate an endorsement to which this section applies and the payment is not permitted by this section.

Sec. 35. NEW SECTION. 554.3207 REACQUISITION.

Reacquisition of an instrument occurs if it is transferred to a former holder, by negotiation or otherwise. A former holder who reacquires the instrument may cancel endorsements made after the reacquirer first became a holder of the instrument. If the cancellation causes the instrument to be payable to the reacquirer or to bearer, the reacquirer may negotiate the instrument. An endorser whose endorsement is cancelled is discharged, and the discharge is effective against any subsequent holder.

PART 3
ENFORCEMENT OF INSTRUMENTS

Sec. 36. NEW SECTION. 554.3301 PERSON ENTITLED TO ENFORCE INSTRUMENT.

"Person entitled to enforce" an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to section 554.3309 or 554.3418, subsection 4. A person may be a person entitled to enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.

Sec. 37. NEW SECTION. 554.3302 HOLDER IN DUE COURSE.

1. Subject to subsection 3 and section 554.3106, subsection 4, "holder in due course" means the holder of an instrument if:

a. the instrument when issued or negotiated to the holder does not bear such apparent evidence of forgery or alteration or is not otherwise so irregular or incomplete as to call into question its authenticity; and

b. the holder took the instrument (i) for value, (ii) in good faith, (iii) without notice that the instrument is overdue or has been dishonored or that there is an uncured default with respect to payment of another instrument issued as part of the same series, (iv) without notice that the instrument contains an unauthorized signature or has been altered, (v) without notice of any claim to the instrument described in section 554.3306, and (vi) without notice that any party has a defense or claim in recoupment described in section 554.3305, subsection 1.

2. Notice of discharge of a party, other than discharge in an insolvency proceeding, is not notice of a defense under subsection 1, but discharge is effective against a person who became a holder in due course with notice of the discharge. Public filing or recording of a document does not of itself constitute notice of a defense, claim in recoupment, or claim to the instrument.

3. Except to the extent a transferor or predecessor in interest has rights as a holder in due course, a person does not acquire rights of a holder in due course of an instrument taken (i)

by legal process or by purchase in an execution, bankruptcy, or creditor's sale or similar proceeding, (ii) by purchase as part of a bulk transaction not in ordinary course of business of the transferor, or (iii) as the successor in interest to an estate or other organization.

4. If, under section 554.3303, subsection 1, paragraph "a", the promise of performance that is the consideration for an instrument has been partially performed, the holder may assert rights as a holder in due course of the instrument only to the fraction of the amount payable under the instrument equal to the value of the partial performance divided by the value of the promised performance.

5. If (i) the person entitled to enforce an instrument has only a security interest in the instrument and (ii) the person obliged to pay the instrument has a defense, claim in recoupment, or claim to the instrument that may be asserted against the person who granted the security interest, the person entitled to enforce the instrument may assert rights as a holder in due course only to an amount payable under the instrument which, at the time of enforcement of the instrument, does not exceed the amount of the unpaid obligation secured.

6. To be effective, notice must be received at a time and in a manner that gives a reasonable opportunity to act on it.

7. This section is subject to any law limiting status as a holder in due course in particular classes of transactions.

Sec. 38. NEW SECTION. 554.3303 VALUE AND CONSIDERATION.

1. An instrument is issued or transferred for value if:

a. the instrument is issued or transferred for a promise of performance, to the extent the promise has been performed;

b. the transferee acquires a security interest or other lien in the instrument other than a lien obtained by judicial proceeding;

c. the instrument is issued or transferred as payment of, or as security for, an antecedent claim against any person, whether or not the claim is due;

d. the instrument is issued or transferred in exchange for a negotiable instrument; or

e. the instrument is issued or transferred in exchange for the incurring of an irrevocable obligation to a third party by the person taking the instrument.

2. "Consideration" means any consideration sufficient to support a simple contract. The drawer or maker of an instrument has a defense if the instrument is issued without consideration. If an instrument is issued for a promise of performance, the issuer has a defense to the extent performance of the promise is due and the promise has not been performed. If an instrument is issued for value as stated in subsection 1, the instrument is also issued for consideration.

Sec. 39. NEW SECTION. 554.3304 OVERDUE INSTRUMENT.

1. An instrument payable on demand becomes overdue at the earliest of the following times:

a. on the day after the day demand for payment is duly made;

b. if the instrument is a check, ninety days after its date; or

c. if the instrument is not a check, when the instrument has been outstanding for a period of time after its date which is unreasonably long under the circumstances of the particular case in light of the nature of the instrument and usage of the trade.

2. With respect to an instrument payable at a definite time the following rules apply:

a. If the principal is payable in installments and a due date has not been accelerated, the instrument becomes overdue upon default under the instrument for nonpayment of an installment, and the instrument remains overdue until the default is cured.

b. If the principal is not payable in installments and the due date has not been accelerated, the instrument becomes overdue on the day after the due date.

c. If a due date with respect to principal has been accelerated, the instrument becomes overdue on the day after the accelerated due date.

3. Unless the due date of principal has been accelerated, an instrument does not become overdue if there is default in payment of interest but no default in payment of principal.

Sec. 40. NEW SECTION. 554.3305 DEFENSES AND CLAIMS IN RECOUPMENT.

1. Except as stated in subsection 2, the right to enforce the obligation of a party to pay an instrument is subject to the following:

a. a defense of the obligor based on (i) infancy of the obligor to the extent it is a defense to a simple contract, (ii) duress, lack of legal capacity, or illegality of the transaction which, under other law, nullifies the obligation of the obligor, (iii) fraud that induced the obligor to sign the instrument with neither knowledge nor reasonable opportunity to learn of its character or its essential terms, or (iv) discharge of the obligor in insolvency proceedings;

b. a defense of the obligor stated in another section of this Article or a defense of the obligor that would be available if the person entitled to enforce the instrument were enforcing a right to payment under a simple contract; and

c. a claim in recoupment of the obligor against the original payee of the instrument if the claim arose from the transaction that gave rise to the instrument; but the claim of the obligor may be asserted against a transferee of the instrument only to reduce the amount owing on the instrument at the time the action is brought.

2. The right of a holder in due course to enforce the obligation of a party to pay the instrument is subject to defenses of the obligor stated in subsection 1, paragraph "a", but is not subject to defenses of the obligor stated in subsection 1, paragraph "b", or claims in recoupment stated in subsection 1, paragraph "c", against a person other than the holder.

3. Except as stated in subsection 4, in an action to enforce the obligation of a party to pay the instrument, the obligor may not assert against the person entitled to enforce the instrument a defense, claim in recoupment, or claim to the instrument (section 554.3306) of another person, but the other person's claim to the instrument may be asserted by the obligor if the other person is joined in the action and personally asserts the claim against the person entitled to enforce the instrument. An obligor is not obliged to pay the instrument if the person seeking enforcement of the instrument does not have rights of a holder in due course and the obligor proves that the instrument is a lost or stolen instrument.

4. In an action to enforce the obligation of an accommodation party to pay an instrument, the accommodation party may assert against the person entitled to enforce the instrument any defense or claim in recoupment under subsection 1 that the accommodated party could assert against the person entitled to enforce the instrument, except the defenses of discharge in insolvency proceedings, infancy, and lack of legal capacity.

Sec. 41. NEW SECTION. 554.3306 CLAIMS TO AN INSTRUMENT.

A person taking an instrument, other than a person having rights of a holder in due course, is subject to a claim of a property or possessory right in the instrument or its proceeds, including a claim to rescind a negotiation and to recover the instrument or its proceeds. A person having rights of a holder in due course takes free of the claim to the instrument.

Sec. 42. NEW SECTION. 554.3307 NOTICE OF BREACH OF FIDUCIARY DUTY.

1. In this section:

a. "Fiduciary" means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument.

b. "Represented person" means the principal, beneficiary, partnership, corporation, or other person to whom the duty stated in paragraph "a" is owed.

2. If (i) an instrument is taken from a fiduciary for payment or collection or for value, (ii) the taker has knowledge of the fiduciary status of the fiduciary, and (iii) the represented person makes a claim to the instrument or its proceeds on the basis that the transaction of the fiduciary is a breach of fiduciary duty, the following rules apply:

a. Notice of breach of fiduciary duty by the fiduciary is notice of the claim of the represented person.

b. In the case of an instrument payable to the represented person or the fiduciary as such, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii)

taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

c. If an instrument is issued by the represented person or the fiduciary as such, and made payable to the fiduciary personally, the taker does not have notice of the breach of fiduciary duty unless the taker knows of the breach of fiduciary duty.

d. If an instrument is issued by the represented person or the fiduciary as such, to the taker as payee, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii) taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

Sec. 43. NEW SECTION. 554.3308 PROOF OF SIGNATURES AND STATUS AS HOLDER IN DUE COURSE.

1. In an action with respect to an instrument, the authenticity of, and authority to make, each signature on the instrument is admitted unless specifically denied in the pleadings. If the validity of a signature is denied in the pleadings, the burden of establishing validity is on the person claiming validity, but the signature is presumed to be authentic and authorized unless the action is to enforce the liability of the purported signer and the signer is dead or incompetent at the time of trial of the issue of validity of the signature. If an action to enforce the instrument is brought against a person as the undisclosed principal of a person who signed the instrument as a party to the instrument, the plaintiff has the burden of establishing that the defendant is liable on the instrument as a represented person under section 554.3402, subsection 1.

2. If the validity of signatures is admitted or proved and there is compliance with subsection 1, a plaintiff producing the instrument is entitled to payment if the plaintiff proves entitlement to enforce the instrument under section 554.3301, unless the defendant proves a defense or claim in recoupment. If a defense or claim in recoupment is proved, the right to payment of the plaintiff is subject to the defense or claim, except to the extent the plaintiff proves that the plaintiff has rights of a holder in due course which are not subject to the defense or claim.

Sec. 44. NEW SECTION. 554.3309 ENFORCEMENT OF LOST, DESTROYED, OR STOLEN INSTRUMENT.

1. A person not in possession of an instrument is entitled to enforce the instrument if: (i) the person was in possession of the instrument and entitled to enforce it when loss of possession occurred, (ii) the loss of possession was not the result of a transfer by the person or a lawful seizure, and (iii) the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

2. A person seeking enforcement of an instrument under subsection 1 must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, section 554.3308 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means.

Sec. 45. NEW SECTION. 554.3310 EFFECT OF INSTRUMENT ON OBLIGATION FOR WHICH TAKEN.

1. Unless otherwise agreed, if a certified check, cashier's check, or teller's check is taken for an obligation, the obligation is discharged to the same extent discharge would result if an amount of money equal to the amount of the instrument were taken in payment of the obligation. Discharge of the obligation does not affect any liability that the obligor may have as an endorser of the instrument.

2. Unless otherwise agreed and except as provided in subsection 1, if a note or an uncertified check is taken for an obligation, the obligation is suspended to the same extent the obligation would be discharged if an amount of money equal to the amount of the instrument were taken, and the following rules apply:

a. In the case of an uncertified check, suspension of the obligation continues until dishonor of the check or until it is paid or certified. Payment or certification of the check results in discharge of the obligation to the extent of the amount of the check.

b. In the case of a note, suspension of the obligation continues until dishonor of the note or until it is paid. Payment of the note results in discharge of the obligation to the extent of the payment.

c. Except as provided in paragraph "d", if the check or note is dishonored and the obligee of the obligation for which the instrument was taken is the person entitled to enforce the instrument, the obligee may enforce either the instrument or the obligation. In the case of an instrument of a third person which is negotiated to the obligee by the obligor, discharge of the obligor on the instrument also discharges the obligation.

d. If the person entitled to enforce the instrument taken for an obligation is a person other than the obligee, the obligee may not enforce the obligation to the extent the obligation is suspended. If the obligee is the person entitled to enforce the instrument but no longer has possession of it because it was lost, stolen, or destroyed, the obligation may not be enforced to the extent of the amount payable on the instrument, and to that extent the obligee's rights against the obligor are limited to enforcement of the instrument.

3. If an instrument other than one described in subsection 1 or 2 is taken for an obligation, the effect is (i) that stated in subsection 1 if the instrument is one on which a bank is liable as maker or acceptor, or (ii) that stated in subsection 2 in any other case.

Sec. 46. NEW SECTION. 554.3311 ACCORD AND SATISFACTION BY USE OF INSTRUMENT.

1. If a person against whom a claim is asserted proves that (i) that person in good faith tendered an instrument to the claimant as full satisfaction of the claim, (ii) the amount of the claim was unliquidated or subject to a bona fide dispute, and (iii) the claimant obtained payment of the instrument, the following subsections apply.

2. Unless subsection 3 applies, the claim is discharged if the person against whom the claim is asserted proves that the instrument or an accompanying written communication contained a conspicuous statement to the effect that the instrument was tendered as full satisfaction of the claim.

3. Subject to subsection 4, a claim is not discharged under subsection 2 if either of the following applies:

a. The claimant, if an organization, proves that (i) within a reasonable time before the tender, the claimant sent a conspicuous statement to the person against whom the claim is asserted that communications concerning disputed debts, including an instrument tendered as full satisfaction of a debt, are to be sent to a designated person, office, or place, and (ii) the instrument or accompanying communication was not received by that designated person, office, or place.

b. The claimant, whether or not an organization, proves that within ninety days after payment of the instrument, the claimant tendered repayment of the amount of the instrument to the person against whom the claim is asserted. This paragraph does not apply if the claimant is an organization that sent a statement complying with paragraph "a" letter (i).

4. A claim is discharged if the person against whom the claim is asserted proves that within a reasonable time before collection of the instrument was initiated, the claimant, or an agent of the claimant having direct responsibility with respect to the disputed obligation, knew that the instrument was tendered in full satisfaction of the claim.

Sec. 47. NEW SECTION. 554.3312 LOST, DESTROYED, OR STOLEN CASHIER'S CHECK, TELLER'S CHECK, OR CERTIFIED CHECK.

1. In this section:

a. "Check" means a cashier's check, teller's check, or certified check.

b. "Claimant" means a person who claims the right to receive the amount of a cashier's check, teller's check, or certified check that was lost, destroyed, or stolen.

c. "Declaration of loss" means a written statement, made under penalty of perjury, to the effect that (i) the declarer lost possession of a check, (ii) the declarer is the drawer or payee of the check, in the case of a certified check, or the remitter or payee of the check, in the case of a cashier's check or teller's check, (iii) the loss of possession was not the result of a transfer by the declarer or a lawful seizure, and (iv) the declarer cannot reasonably obtain possession of the check because the check was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

d. "Obligated bank" means the issuer of a cashier's check or teller's check or the acceptor of a certified check.

2. A claimant may assert a claim to the amount of a check by a communication to the obligated bank describing the check with reasonable certainty and requesting payment of the amount of the check, if (i) the claimant is the drawer or payee of a certified check or the remitter or payee of a cashier's check or teller's check, (ii) the communication contains or is accompanied by a declaration of loss of the claimant with respect to the check, (iii) the communication is received at a time and in a manner affording the bank a reasonable time to act on it before the check is paid, and (iv) the claimant provides reasonable identification if requested by the obligated bank. Delivery of a declaration of loss is a warranty of the truth of the statements made in the declaration. If a claim is asserted in compliance with this subsection, the following rules apply:

a. The claim becomes enforceable at the later of (i) the time the claim is asserted, or (ii) the ninetieth day following the date of the check, in the case of a cashier's check or teller's check, or the ninetieth day following the date of the acceptance, in the case of a certified check.

b. Until the claim becomes enforceable, it has no legal effect and the obligated bank may pay the check or, in the case of a teller's check, may permit the drawee to pay the check. Payment to a person entitled to enforce the check discharges all liability of the obligated bank with respect to the check.

c. If the claim becomes enforceable before the check is presented for payment, the obligated bank is not obliged to pay the check.

d. When the claim becomes enforceable, the obligated bank becomes obliged to pay the amount of the check to the claimant if payment of the check has not been made to a person entitled to enforce the check. Subject to section 554.4302, subsection 1, paragraph "a", payment to the claimant discharges all liability of the obligated bank with respect to the check.

3. If the obligated bank pays the amount of a check to a claimant under subsection 2, paragraph "d", and the check is presented for payment by a person having rights of a holder in due course, the claimant is obliged to (i) refund the payment to the obligated bank if the check is paid, or (ii) pay the amount of the check to the person having rights of a holder in due course if the check is dishonored.

4. If a claimant has the right to assert a claim under subsection 2 and is also a person entitled to enforce a cashier's check, teller's check, or certified check which is lost, destroyed, or stolen, the claimant may assert rights with respect to the check either under this section or section 554.3309.

PART 4
LIABILITY OF PARTIES

Sec. 48. NEW SECTION. 554.3401 SIGNATURE.

1. A person is not liable on an instrument unless (i) the person signed the instrument, or (ii) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under section 554.3402.

2. A signature may be made (i) manually or by means of a device or machine, and (ii) by the use of any name, including a trade or assumed name, or by a word, mark, or symbol executed or adopted by a person with present intention to authenticate a writing.

Sec. 49. NEW SECTION. 554.3402 SIGNATURE BY REPRESENTATIVE.

1. If a person acting, or purporting to act, as a representative signs an instrument by signing either the name of the represented person or the name of the signer, the represented person is bound by the signature to the same extent the represented person would be bound if the signature were on a simple contract. If the represented person is bound, the signature of the representative is the "authorized signature of the represented person" and the represented person is liable on the instrument, whether or not identified in the instrument.

2. If a representative signs the name of the representative to an instrument and the signature is an authorized signature of the represented person, the following rules apply:

a. If the form of the signature shows unambiguously that the signature is made on behalf of the represented person who is identified in the instrument, the representative is not liable on the instrument.

b. Subject to subsection 3, if (i) the form of the signature does not show unambiguously that the signature is made in a representative capacity or (ii) the represented person is not identified in the instrument, the representative is liable on the instrument to a holder in due course that took the instrument without notice that the representative was not intended to be liable on the instrument. With respect to any other person, the representative is liable on the instrument unless the representative proves that the original parties did not intend the representative to be liable on the instrument.

3. If a representative signs the name of the representative as drawer of a check without indication of the representative status and the check is payable from an account of the represented person who is identified on the check, the signer is not liable on the check if the signature is an authorized signature of the represented person.

Sec. 50. NEW SECTION. 554.3403 UNAUTHORIZED SIGNATURE.

1. Unless otherwise provided in this Article or Article 4, an unauthorized signature is ineffective except as the signature of the unauthorized signer in favor of a person who in good faith pays the instrument or takes it for value. An unauthorized signature may be ratified for all purposes of this Article.

2. If the signature of more than one person is required to constitute the authorized signature of an organization, the signature of the organization is unauthorized if one of the required signatures is lacking.

3. The civil or criminal liability of a person who makes an unauthorized signature is not affected by any provision of this Article which makes the unauthorized signature effective for the purposes of this Article.

Sec. 51. NEW SECTION. 554.3404 IMPOSTORS — FICTITIOUS PAYEES.

1. If an impostor, by use of the mails or otherwise, induces the issuer of an instrument to issue the instrument to the impostor, or to a person acting in concert with the impostor, by impersonating the payee of the instrument or a person authorized to act for the payee, an endorsement of the instrument by any person in the name of the payee is effective as the endorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

2. If (i) a person whose intent determines to whom an instrument is payable (section 554.3110, subsection 1 or 2) does not intend the person identified as payee to have any interest in the instrument, or (ii) the person identified as payee of an instrument is a fictitious person, the following rules apply until the instrument is negotiated by special endorsement:

a. Any person in possession of the instrument is its holder.

b. An endorsement by any person in the name of the payee stated in the instrument is effective as the endorsement of the payee in favor of a person who, in good faith, pays the instrument or takes it for value or for collection.

3. Under subsection 1 or 2, an endorsement is made in the name of a payee if (i) it is made in a name substantially similar to that of the payee or (ii) the instrument, whether or not endorsed, is deposited in a depositary bank to an account in a name substantially similar to that of the payee.

4. With respect to an instrument to which subsection 1 or 2 applies, if a person paying the instrument or taking it for value or for collection fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss resulting from payment of the instrument, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

Sec. 52. NEW SECTION. 554.3405 EMPLOYER'S RESPONSIBILITY FOR FRAUDULENT ENDORSEMENT BY EMPLOYEE.

1. In this section:

a. "Employee" includes an independent contractor and employee of an independent contractor retained by the employer.

b. "Fraudulent endorsement" means (i) in the case of an instrument payable to the employer, a forged endorsement purporting to be that of the employer, or (ii) in the case of an instrument with respect to which the employer is the issuer, a forged endorsement purporting to be that of the person identified as payee.

c. "Responsibility" with respect to instruments means authority (i) to sign or endorse instruments on behalf of the employer, (ii) to process instruments received by the employer for bookkeeping purposes, for deposit to an account, or for other disposition, (iii) to prepare or process instruments for issue in the name of the employer, (iv) to supply information determining the names or addresses of payees of instruments to be issued in the name of the employer, (v) to control the disposition of instruments to be issued in the name of the employer, or (vi) to act otherwise with respect to instruments in a responsible capacity. "Responsibility" does not include authority that merely allows an employee to have access to instruments or blank or incomplete instrument forms that are being stored or transported or are part of incoming or outgoing mail, or similar access.

2. For the purpose of determining the rights and liabilities of a person who, in good faith, pays an instrument or takes it for value or for collection, if an employer entrusted an employee with responsibility with respect to the instrument and the employee or a person acting in concert with the employee makes a fraudulent endorsement of the instrument, the endorsement is effective as the endorsement of the person to whom the instrument is payable if it is made in the name of that person. If the person paying the instrument or taking it for value or for collection fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss resulting from the fraud, the person bearing the loss may recover from the person failing to exercise ordinary care to the extent the failure to exercise ordinary care contributed to the loss.

3. Under subsection 2, an endorsement is made in the name of the person to whom an instrument is payable if (i) it is made in a name substantially similar to the name of that person or (ii) the instrument, whether or not endorsed, is deposited in a depositary bank to an account in a name substantially similar to the name of that person.

Sec. 53. NEW SECTION. 554.3406 NEGLIGENCE CONTRIBUTING TO FORGED SIGNATURE OR ALTERATION OF INSTRUMENT.

1. A person whose failure to exercise ordinary care substantially contributes to an alteration of an instrument or to the making of a forged signature on an instrument is precluded from asserting the alteration or the forgery against a person who, in good faith, pays the instrument or takes it for value or for collection.

2. Under subsection 1, if the person asserting the preclusion fails to exercise ordinary care in paying or taking the instrument and that failure substantially contributes to loss, the loss is allocated between the person precluded and the person asserting the preclusion according to the extent to which the failure of each to exercise ordinary care contributed to the loss.

3. Under subsection 1, the burden of proving failure to exercise ordinary care is on the person asserting the preclusion. Under subsection 2, the burden of proving failure to exercise ordinary care is on the person precluded.

Sec. 54. NEW SECTION. 554.3407 ALTERATION.

1. "Alteration" means (i) an unauthorized change in an instrument that purports to modify in any respect the obligation of a party, or (ii) an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party.

2. Except as provided in subsection 3, an alteration fraudulently made discharges a party whose obligation is affected by the alteration unless that party assents or is precluded from asserting the alteration. No other alteration discharges a party, and the instrument may be enforced according to its original terms.

3. A payor bank or drawee paying a fraudulently altered instrument or a person taking it for value, in good faith and without notice of the alteration, may enforce rights with respect to the instrument (i) according to its original terms, or (ii) in the case of an incomplete instrument altered by unauthorized completion, according to its terms as completed.

Sec. 55. NEW SECTION. 554.3408 DRAWEE NOT LIABLE ON UNACCEPTED DRAFT.

A check or other draft does not of itself operate as an assignment of funds in the hands of the drawee available for its payment, and the drawee is not liable on the instrument until the drawee accepts it.

Sec. 56. NEW SECTION. 554.3409 ACCEPTANCE OF DRAFT — CERTIFIED CHECK.

1. "Acceptance" means the drawee's signed agreement to pay a draft as presented. It must be written on the draft and may consist of the drawee's signature alone. Acceptance may be made at any time and becomes effective when notification pursuant to instructions is given or the accepted draft is delivered for the purpose of giving rights on the acceptance to any person.

2. A draft may be accepted although it has not been signed by the drawer, is otherwise incomplete, is overdue, or has been dishonored.

3. If a draft is payable at a fixed period after sight and the acceptor fails to date the acceptance, the holder may complete the acceptance by supplying a date in good faith.

4. "Certified check" means a check accepted by the bank on which it is drawn. Acceptance may be made as stated in subsection 1 or by a writing on the check which indicates that the check is certified. The drawee of a check has no obligation to certify the check, and refusal to certify is not dishonor of the check.

Sec. 57. NEW SECTION. 554.3410 ACCEPTANCE VARYING DRAFT.

1. If the terms of a drawee's acceptance vary from the terms of the draft as presented, the holder may refuse the acceptance and treat the draft as dishonored. In that case, the drawee may cancel the acceptance.

2. The terms of a draft are not varied by an acceptance to pay at a particular bank or place in the United States, unless the acceptance states that the draft is to be paid only at that bank or place.

3. If the holder assents to an acceptance varying the terms of a draft, the obligation of each drawer and endorser that does not expressly assent to the acceptance is discharged.

Sec. 58. NEW SECTION. 554.3411 REFUSAL TO PAY CASHIER'S CHECKS, TELLER'S CHECKS, AND CERTIFIED CHECKS.

1. In this section, "obligated bank" means the acceptor of a certified check or the issuer of a cashier's check or teller's check bought from the issuer.

2. If the obligated bank wrongfully (i) refuses to pay a cashier's check or certified check, (ii) stops payment of a teller's check, or (iii) refuses to pay a dishonored teller's check, the person asserting the right to enforce the check is entitled to compensation for expenses and loss of interest resulting from the nonpayment and may recover consequential damages if the obligated bank refuses to pay after receiving notice of particular circumstances giving rise to the damages.

3. Expenses or consequential damages under subsection 2 are not recoverable if the refusal of the obligated bank to pay occurs because (i) the bank suspends payments, (ii) the obligated bank asserts a claim or defense of the bank that it has reasonable grounds to believe is available against the person entitled to enforce the instrument, (iii) the obligated bank has a reasonable doubt whether the person demanding payment is the person entitled to enforce the instrument, or (iv) payment is prohibited by law.

Sec. 59. NEW SECTION. 554.3412 OBLIGATION OF ISSUER OF NOTE OR CASHIER'S CHECK.

The issuer of a note or cashier's check or other draft drawn on the drawer is obliged to pay the instrument (i) according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or (ii) if the issuer signed an incomplete instrument, according to its terms when completed, to the extent stated in sections 554.3115 and 554.3407. The obligation is owed to a person entitled to enforce the instrument or to an endorser who paid the instrument under section 554.3415.

Sec. 60. NEW SECTION. 554.3413 OBLIGATION OF ACCEPTOR.

1. The acceptor of a draft is obliged to pay the draft (i) according to its terms at the time it was accepted, even though the acceptance states that the draft is payable "as originally drawn" or equivalent terms, (ii) if the acceptance varies the terms of the draft, according to the terms of the draft as varied, or (iii) if the acceptance is of a draft that is an incomplete instrument, according to its terms when completed, to the extent stated in sections 554.3115 and 554.3407. The obligation is owed to a person entitled to enforce the draft or to the drawer or an endorser who paid the draft under section 554.3414 or 554.3415.

2. If the certification of a check or other acceptance of a draft states the amount certified or accepted, the obligation of the acceptor is that amount. If (i) the certification or acceptance does not state an amount, (ii) the amount of the instrument is subsequently raised, and (iii) the instrument is then negotiated to a holder in due course, the obligation of the acceptor is the amount of the instrument at the time it was taken by the holder in due course.

Sec. 61. NEW SECTION. 554.3414 OBLIGATION OF DRAWER.

1. This section does not apply to cashier's checks or other drafts drawn on the drawer.

2. If an unaccepted draft is dishonored, the drawer is obliged to pay the draft (i) according to its terms at the time it was issued or, if not issued, at the time it first came into possession of a holder, or (ii) if the drawer signed an incomplete instrument, according to its terms when completed, to the extent stated in sections 554.3115 and 554.3407. The obligation is owed to a person entitled to enforce the draft or to an endorser who paid the draft under section 554.3415.

3. If a draft is accepted by a bank, the drawer is discharged, regardless of when or by whom acceptance was obtained.

4. If a draft is accepted and the acceptor is not a bank, the obligation of the drawer to pay the draft if the draft is dishonored by the acceptor is the same as the obligation of an endorser under section 554.3415, subsections 1 and 3.

5. If a draft states that it is drawn "without recourse" or otherwise disclaims liability of the drawer to pay the draft, the drawer is not liable under subsection 2 to pay the draft if the draft is not a check. A disclaimer of the liability stated in subsection 2 is not effective if the draft is a check.

6. If (i) a check is not presented for payment or given to a depositary bank for collection within thirty days after its date, (ii) the drawee suspends payments after expiration of the thirty-day period without paying the check, and (iii) because of the suspension of payments, the drawer is deprived of funds maintained with the drawee to cover payment of the check, the drawer to the extent deprived of funds may discharge its obligation to pay the check by assigning to the person entitled to enforce the check the rights of the drawer against the drawee with respect to the funds.

Sec. 62. NEW SECTION. 554.3415 OBLIGATION OF ENDORSER.

1. Subject to subsections 2, 3, and 4 and to section 554.3419, subsection 4, if an instrument is dishonored, an endorser is obliged to pay the amount due on the instrument (i) according to the terms of the instrument at the time it was endorsed, or (ii) if the endorser endorsed an incomplete instrument, according to its terms when completed, to the extent stated in sections 554.3115 and 554.3407. The obligation of the endorser is owed to a person entitled to enforce the instrument or to a subsequent endorser who paid the instrument under this section.

2. If an endorsement states that it is made "without recourse" or otherwise disclaims liability of the endorser, the endorser is not liable under subsection 1 to pay the instrument.

3. If notice of dishonor of an instrument is required by section 554.3503 and notice of dishonor complying with that section is not given to an endorser, the liability of the endorser under subsection 1 is discharged.

4. If a draft is accepted by a bank after an endorsement is made, the liability of the endorser under subsection 1 is discharged.

5. If an endorser of a check is liable under subsection 1 and the check is not presented for payment, or given to a depositary bank for collection, within thirty days after the day the endorsement was made, the liability of the endorser under subsection 1 is discharged.

Sec. 63. NEW SECTION. 554.3416 TRANSFER WARRANTIES.

1. A person who transfers an instrument for consideration warrants to the transferee and, if the transfer is by endorsement, to any subsequent transferee that:

a. the warrantor is a person entitled to enforce the instrument;

b. all signatures on the instrument are authentic and authorized;

c. the instrument has not been altered;

d. the instrument is not subject to a defense or claim in recoupment of any party which can be asserted against the warrantor; and

e. the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

2. A person to whom the warranties under subsection 1 are made and who took the instrument in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the instrument plus expenses and loss of interest incurred as a result of the breach.

3. The warranties stated in subsection 1 cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within sixty days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection 2 is discharged to the extent of any loss caused by the delay in giving notice of the claim.

4. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Sec. 64. NEW SECTION. 554.3417 PRESENTMENT WARRANTIES.

1. If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee making payment or accepting the draft in good faith that:

a. the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

b. the draft has not been altered; and

c. the warrantor has no knowledge that the signature of the drawer of the draft is unauthorized.

2. A drawee making payment may recover from any warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled

to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft, breach of warranty is a defense to the obligation of the acceptor. If the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from any warrantor for breach of warranty the amounts stated in this subsection.

3. If a drawee asserts a claim for breach of warranty under subsection 1 based on an unauthorized endorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the endorsement is effective under section 554.3404 or 554.3405 or the drawer is precluded under section 554.3406 or 554.4406 from asserting against the drawee the unauthorized endorsement or alteration.

4. If (i) a dishonored draft is presented for payment to the drawer or an endorser or (ii) any other instrument is presented for payment to a party obliged to pay the instrument, and (iii) payment is received, the following rules apply:

a. The person obtaining payment and a prior transferor of the instrument warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the instrument, a person entitled to enforce the instrument or authorized to obtain payment on behalf of a person entitled to enforce the instrument.

b. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

5. The warranties stated in subsections 1 and 4 cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within sixty days after the claimant has reason to know of the breach and the identity of the warrantor, the liability of the warrantor under subsection 2 or 4 is discharged to the extent of any loss caused by the delay in giving notice of the claim.

6. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Sec. 65. NEW SECTION. 554.3418 PAYMENT OR ACCEPTANCE BY MISTAKE.

1. Except as provided in subsection 3, if the drawee of a draft pays or accepts the draft and the drawee acted on the mistaken belief that (i) payment of the draft had not been stopped pursuant to section 554.4403 or (ii) the signature of the drawer of the draft was authorized, the drawee may recover the amount of the draft from the person to whom or for whose benefit payment was made or, in the case of acceptance, may revoke the acceptance. Rights of the drawee under this subsection are not affected by failure of the drawee to exercise ordinary care in paying or accepting the draft.

2. Except as provided in subsection 3, if an instrument has been paid or accepted by mistake and the case is not covered by subsection 1, the person paying or accepting may, to the extent permitted by the law governing mistake and restitution, (i) recover the payment from the person to whom or for whose benefit payment was made or (ii) in the case of acceptance, may revoke the acceptance.

3. The remedies provided by subsection 1 or 2 may not be asserted against a person who took the instrument in good faith and for value or who in good faith changed position in reliance on the payment or acceptance. This subsection does not limit remedies provided by section 554.3417 or 554.4407.

4. Notwithstanding section 554.4215, if an instrument is paid or accepted by mistake and the payor or acceptor recovers payment or revokes acceptance under subsection 1 or 2, the instrument is deemed not to have been paid or accepted and is treated as dishonored, and the person from whom payment is recovered has rights as a person entitled to enforce the dishonored instrument.

Sec. 66. NEW SECTION. 554.3419 INSTRUMENTS SIGNED FOR ACCOMMODATION.

1. If an instrument is issued for value given for the benefit of a party to the instrument ("accommodated party") and another party to the instrument ("accommodation party") signs

the instrument for the purpose of incurring liability on the instrument without being a direct beneficiary of the value given for the instrument, the instrument is signed by the accommodation party "for accommodation."

2. An accommodation party may sign the instrument as maker, drawer, acceptor, or endorser and, subject to subsection 4, is obliged to pay the instrument in the capacity in which the accommodation party signs. The obligation of an accommodation party may be enforced notwithstanding any statute of frauds and whether or not the accommodation party receives consideration for the accommodation.

3. A person signing an instrument is presumed to be an accommodation party and there is notice that the instrument is signed for accommodation if the signature is an anomalous endorsement or is accompanied by words indicating that the signer is acting as surety or guarantor with respect to the obligation of another party to the instrument. Except as provided in section 554.3605, the obligation of an accommodation party to pay the instrument is not affected by the fact that the person enforcing the obligation had notice when the instrument was taken by that person that the accommodation party signed the instrument for accommodation.

4. If the signature of a party to an instrument is accompanied by words indicating unambiguously that the party is guaranteeing collection rather than payment of the obligation of another party to the instrument, the signer is obliged to pay the amount due on the instrument to a person entitled to enforce the instrument only if (i) execution of judgment against the other party has been returned unsatisfied, (ii) the other party is insolvent or in an insolvency proceeding, (iii) the other party cannot be served with process, or (iv) it is otherwise apparent that payment cannot be obtained from the other party.

5. An accommodation party who pays the instrument is entitled to reimbursement from the accommodated party and is entitled to enforce the instrument against the accommodated party. An accommodated party who pays the instrument has no right of recourse against, and is not entitled to contribution from, an accommodation party.

Sec. 67. NEW SECTION. 554.3420 CONVERSION OF INSTRUMENT.

1. The law applicable to conversion of personal property applies to instruments. An instrument is also converted if it is taken by transfer, other than a negotiation, from a person not entitled to enforce the instrument or a bank makes or obtains payment with respect to the instrument for a person not entitled to enforce the instrument or receive payment. An action for conversion of an instrument may not be brought by (i) the issuer or acceptor of the instrument or (ii) a payee or endorsee who did not receive delivery of the instrument either directly or through delivery to an agent or a co-payee.

2. In an action under subsection 1, the measure of liability is presumed to be the amount payable on the instrument, but recovery may not exceed the amount of the plaintiff's interest in the instrument.

3. A representative, other than a depositary bank, who has in good faith dealt with an instrument or its proceeds on behalf of one who was not the person entitled to enforce the instrument is not liable in conversion to that person beyond the amount of any proceeds that it has not paid out.

PART 5
DISHONOR

Sec. 68. NEW SECTION. 554.3501 PRESENTMENT.

1. "Presentment" means a demand made by or on behalf of a person entitled to enforce an instrument (i) to pay the instrument made to the drawee or a party obliged to pay the instrument or, in the case of a note or accepted draft payable at a bank, to the bank, or (ii) to accept a draft made to the drawee.

2. The following rules are subject to Article 4, agreement of the parties, and clearing-house rules and the like:

a. Presentment may be made at the place of payment of the instrument and must be made at the place of payment if the instrument is payable at a bank in the United States; may be

made by any commercially reasonable means, including an oral, written, or electronic communication; is effective when the demand for payment or acceptance is received by the person to whom presentment is made; and is effective if made to any one of two or more makers, acceptors, drawees, or other payors.

b. Upon demand of the person to whom presentment is made, the person making presentment must (i) exhibit the instrument, (ii) give reasonable identification and, if presentment is made on behalf of another person, reasonable evidence of authority to do so, and (iii) sign a receipt on the instrument for any payment made or surrender the instrument if full payment is made.

c. Without dishonoring the instrument, the party to whom presentment is made may (i) return the instrument for lack of a necessary endorsement, or (ii) refuse payment or acceptance for failure of the presentment to comply with the terms of the instrument, an agreement of the parties, or other applicable law or rule.

d. The party to whom presentment is made may treat presentment as occurring on the next business day after the day of presentment if the party to whom presentment is made has established a cut-off hour not earlier than two p.m. for the receipt and processing of instruments presented for payment or acceptance and presentment is made after the cut-off hour.

Sec. 69. NEW SECTION. 554.3502 DISHONOR.

1. Dishonor of a note is governed by the following rules:

a. If the note is payable on demand, the note is dishonored if presentment is duly made to the maker and the note is not paid on the day of presentment.

b. If the note is not payable on demand and is payable at or through a bank or the terms of the note require presentment, the note is dishonored if presentment is duly made and the note is not paid on the day it becomes payable or the day of presentment, whichever is later.

c. If the note is not payable on demand and paragraph "b" does not apply, the note is dishonored if it is not paid on the day it becomes payable.

2. Dishonor of an unaccepted draft other than a documentary draft is governed by the following rules:

a. If a check is duly presented for payment to the payor bank otherwise than for immediate payment over the counter, the check is dishonored if the payor bank makes timely return of the check or sends timely notice of dishonor or nonpayment under section 554.4301 or 554.4302, or becomes accountable for the amount of the check under section 554.4302.

b. If a draft is payable on demand and paragraph a does not apply, the draft is dishonored if presentment for payment is duly made to the drawee and the draft is not paid on the day of presentment.

c. If a draft is payable on a date stated in the draft, the draft is dishonored if (i) presentment for payment is duly made to the drawee and payment is not made on the day the draft becomes payable or the day of presentment, whichever is later, or (ii) presentment for acceptance is duly made before the day the draft becomes payable and the draft is not accepted on the day of presentment.

d. If a draft is payable on elapse of a period of time after sight or acceptance, the draft is dishonored if presentment for acceptance is duly made and the draft is not accepted on the day of presentment.

3. Dishonor of an unaccepted documentary draft occurs according to the rules stated in subsection 2, paragraphs "b", "c", and "d", except that payment or acceptance may be delayed without dishonor until no later than the close of the third business day of the drawee following the day on which payment or acceptance is required by those paragraphs.

4. Dishonor of an accepted draft is governed by the following rules:

a. If the draft is payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and the draft is not paid on the day of presentment.

b. If the draft is not payable on demand, the draft is dishonored if presentment for payment is duly made to the acceptor and payment is not made on the day it becomes payable or the day of presentment, whichever is later.

5. In any case in which presentment is otherwise required for dishonor under this section and presentment is excused under section 554.3504, dishonor occurs without presentment if the instrument is not duly accepted or paid.

6. If a draft is dishonored because timely acceptance of the draft was not made and the person entitled to demand acceptance consents to a late acceptance, from the time of acceptance the draft is treated as never having been dishonored.

Sec. 70. NEW SECTION. 554.3503 NOTICE OF DISHONOR.

1. The obligation of an endorser stated in section 554.3415, subsection 1 and the obligation of a drawer stated in section 554.3414, subsection 4, may not be enforced unless (i) the endorser or drawer is given notice of dishonor of the instrument complying with this section or (ii) notice of dishonor is excused under section 554.3504, subsection 2.

2. Notice of dishonor may be given by any person; may be given by any commercially reasonable means, including an oral, written, or electronic communication; and is sufficient if it reasonably identifies the instrument and indicates that the instrument has been dishonored or has not been paid or accepted. Return of an instrument given to a bank for collection is sufficient notice of dishonor.

3. Subject to section 554.3504, subsection 3, with respect to an instrument taken for collection by a collecting bank, notice of dishonor must be given (i) by the bank before midnight of the next banking day following the banking day on which the bank receives notice of dishonor of the instrument, or (ii) by any other person within thirty days following the day on which the person receives notice of dishonor. With respect to any other instrument, notice of dishonor must be given within thirty days following the day on which dishonor occurs.

Sec. 71. NEW SECTION. 554.3504 EXCUSED PRESENTMENT AND NOTICE OF DISHONOR.

1. Presentment for payment or acceptance of an instrument is excused if (i) the person entitled to present the instrument cannot with reasonable diligence make presentment, (ii) the maker or acceptor has repudiated an obligation to pay the instrument or is dead or in insolvency proceedings, (iii) by the terms of the instrument presentment is not necessary to enforce the obligation of endorsers or the drawer, (iv) the drawer or endorser whose obligation is being enforced has waived presentment or otherwise has no reason to expect or right to require that the instrument be paid or accepted, or (v) the drawer instructed the drawee not to pay or accept the draft or the drawee was not obligated to the drawer to pay the draft.

2. Notice of dishonor is excused if (i) by the terms of the instrument notice of dishonor is not necessary to enforce the obligation of a party to pay the instrument, or (ii) the party whose obligation is being enforced waived notice of dishonor. A waiver of presentment is also a waiver of notice of dishonor.

3. Delay in giving notice of dishonor is excused if the delay was caused by circumstances beyond the control of the person giving the notice and the person giving the notice exercised reasonable diligence after the cause of the delay ceased to operate.

Sec. 72. NEW SECTION. 554.3505 EVIDENCE OF DISHONOR.

1. The following are admissible as evidence and create a presumption of dishonor and of any notice of dishonor stated:

a. a document regular in form as provided in subsection 2 which purports to be a protest;

b. a purported stamp or writing of the drawee, payor bank, or presenting bank on or accompanying the instrument stating that acceptance or payment has been refused unless reasons for the refusal are stated and the reasons are not consistent with dishonor;

c. a book or record of the drawee, payor bank, or collecting bank, kept in the usual course of business which shows dishonor, even if there is no evidence of who made the entry.

2. A protest is a certificate of dishonor made by a United States consul or vice consul, or a notary public or other person authorized to administer oaths by the law of the place where dishonor occurs. It may be made upon information satisfactory to that person. The protest must identify the instrument and certify either that presentment has been made or, if not made,

the reason why it was not made, and that the instrument has been dishonored by nonacceptance or nonpayment. The protest may also certify that notice of dishonor has been given to some or all parties.

PART 6
DISCHARGE AND PAYMENT

Sec. 73. NEW SECTION. 554.3601 DISCHARGE AND EFFECT OF DISCHARGE.

1. The obligation of a party to pay the instrument is discharged as stated in this Article or by an act or agreement with the party which would discharge an obligation to pay money under a simple contract.

2. Discharge of the obligation of a party is not effective against a person acquiring rights of a holder in due course of the instrument without notice of the discharge.

Sec. 74. NEW SECTION. 554.3602 PAYMENT.

1. Subject to subsection 2, an instrument is paid to the extent payment is made (i) by or on behalf of a party obliged to pay the instrument, and (ii) to a person entitled to enforce the instrument. To the extent of the payment, the obligation of the party obliged to pay the instrument is discharged even though payment is made with knowledge of a claim to the instrument under section 554.3306 by another person.

2. The obligation of a party to pay the instrument is not discharged under subsection 1 if:

a. a claim to the instrument under section 554.3306 is enforceable against the party receiving payment and (i) payment is made with knowledge by the payor that payment is prohibited by injunction or similar process of a court of competent jurisdiction, or (ii) in the case of an instrument other than a cashier's check, teller's check, or certified check, the party making payment accepted, from the person having a claim to the instrument, indemnity against loss resulting from refusal to pay the person entitled to enforce the instrument; or

b. the person making payment knows that the instrument is a stolen instrument and pays a person it knows is in wrongful possession of the instrument.

Sec. 75. NEW SECTION. 554.3603 TENDER OF PAYMENT.

1. If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.

2. If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the amount of the tender, of the obligation of an endorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

3. If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay interest after the due date on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

Sec. 76. NEW SECTION. 554.3604 DISCHARGE BY CANCELLATION OR RENUNCIATION.

1. A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument (i) by an intentional voluntary act, such as surrender of the instrument to the party, destruction, mutilation, or cancellation of the instrument, cancellation or striking out of the party's signature, or the addition of words to the instrument indicating discharge, or (ii) by agreeing not to sue or otherwise renouncing rights against the party by a signed writing.

2. Cancellation or striking out of an endorsement pursuant to subsection 1 does not affect the status and rights of a party derived from the endorsement.

Sec. 77. NEW SECTION. 554.3605 DISCHARGE OF ENDORSERS AND ACCOMMODATION PARTIES.

1. In this section, the term "endorser" includes a drawer having the obligation described in section 554.3414, subsection 4.

2. Discharge, under section 554.3604, of the obligation of a party to pay an instrument does not discharge the obligation of an endorser or accommodation party having a right of recourse against the discharged party.

3. If a person entitled to enforce an instrument agrees, with or without consideration, to an extension of the due date of the obligation of a party to pay the instrument, the extension discharges an endorser or accommodation party having a right of recourse against the party whose obligation is extended to the extent the endorser or accommodation party proves that the extension caused loss to the endorser or accommodation party with respect to the right of recourse.

4. If a person entitled to enforce an instrument agrees, with or without consideration, to a material modification of the obligation of a party other than an extension of the due date, the modification discharges the obligation of an endorser or accommodation party having a right of recourse against the person whose obligation is modified to the extent the modification causes loss to the endorser or accommodation party with respect to the right of recourse. The loss suffered by the endorser or accommodation party as a result of the modification is equal to the amount of the right of recourse unless the person enforcing the instrument proves that no loss was caused by the modification or that the loss caused by the modification was an amount less than the amount of the right of recourse.

5. If the obligation of a party to pay an instrument is secured by an interest in collateral and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of an endorser or accommodation party having a right of recourse against the obligor is discharged to the extent of the impairment. The value of an interest in collateral is impaired to the extent (i) the value of the interest is reduced to an amount less than the amount of the right of recourse of the party asserting discharge, or (ii) the reduction in value of the interest causes an increase in the amount by which the amount of the right of recourse exceeds the value of the interest. The burden of proving impairment is on the party asserting discharge.

6. If the obligation of a party is secured by an interest in collateral not provided by an accommodation party and a person entitled to enforce the instrument impairs the value of the interest in collateral, the obligation of any party who is jointly and severally liable with respect to the secured obligation is discharged to the extent the impairment causes the party asserting discharge to pay more than that party would have been obliged to pay, taking into account rights of contribution, if impairment had not occurred. If the party asserting discharge is an accommodation party not entitled to discharge under subsection 5, the party is deemed to have a right to contribution based on joint and several liability rather than a right to reimbursement. The burden of proving impairment is on the party asserting discharge.

7. Under subsection 5 or 6, impairing value of an interest in collateral includes (i) failure to obtain or maintain perfection or recordation of the interest in collateral, (ii) release of collateral without substitution of collateral of equal value, (iii) failure to perform a duty to preserve the value of collateral owed, under Article 9 or other law, to a debtor or surety or other person secondarily liable, or (iv) failure to comply with applicable law in disposing of collateral.

8. An accommodation party is not discharged under subsection 3, 4, or 5 unless the person entitled to enforce the instrument knows of the accommodation or has notice under section 554.3419, subsection 3, that the instrument was signed for accommodation.

9. A party is not discharged under this section if (i) the party asserting discharge consents to the event or conduct that is the basis of the discharge, or (ii) the instrument or a separate agreement of the party provides for waiver of discharge under this section either specifically or by general language indicating that parties waive defenses based on suretyship or impairment of collateral.

Sec. 78. Section 554.4101, Code 1993, is amended to read as follows:

554.4101 SHORT TITLE.

This Article ~~shall be known and~~ may be cited as Uniform Commercial Code — Bank Deposits and Collections.

Sec. 79. Section 554.4102, Code 1993, is amended to read as follows:

554.4102 APPLICABILITY.

1. To the extent that items within this Article are also within ~~the scope of~~ Articles 3 and 8, they are subject to the provisions of those Articles. ~~In the event of~~ If there is conflict, ~~the provisions of~~ this Article ~~govern those of~~ governs Article 3, but ~~the provisions of~~ Article 8 ~~govern those of~~ governs this Article.

2. The liability of a bank for action or nonaction with respect to ~~any~~ an item handled by it for purposes of presentment, payment, or collection is governed by the law of the place where the bank is located. In the case of action or nonaction by or at a branch or separate office of a bank, its liability is governed by the law of the place where the branch or separate office is located.

Sec. 80. Section 554.4103, Code 1993, is amended to read as follows:

554.4103 VARIATION BY AGREEMENT — MEASURE OF DAMAGES — ~~CERTAIN~~ ACTION CONSTITUTING ORDINARY CARE.

1. The effect of the provisions of this Article may be varied by agreement ~~except that no agreement can~~, but the parties to the agreement cannot disclaim a bank's responsibility for its ~~own~~ lack of good faith or failure to exercise ordinary care or ~~can~~ limit the measure of damages for ~~such~~ the lack or failure~~; but~~. However, the parties may determine by agreement ~~determine~~ the standards by which ~~such~~ the bank's responsibility is to be measured if ~~such~~ those standards are not manifestly unreasonable.

2. Federal Reserve regulations and operating ~~letters~~ circulars, clearing house rules, and the like~~,~~ have the effect of agreements under subsection 1, whether or not specifically assented to by all parties interested in items handled.

3. Action or nonaction approved by this Article or pursuant to Federal Reserve regulations or operating ~~letters constitutes~~ circulars is the exercise of ordinary care and, in the absence of special instructions, action or nonaction consistent with clearing house rules and the like or with a general banking usage not disapproved by this Article, is prima facie ~~constitutes~~ the exercise of ordinary care.

4. The specification or approval of certain procedures by this Article ~~does not constitute~~ is not disapproval of other procedures ~~which~~ that may be reasonable under the circumstances.

5. The measure of damages for failure to exercise ordinary care in handling an item is the amount of the item reduced by an amount ~~which~~ that could not have been realized by the ~~use~~ exercise of ordinary care~~, and where~~. If there is also bad faith it includes any other damages~~, if any, suffered by~~ the party suffered as a proximate consequence.

Sec. 81. Section 554.4104, Code 1993, is amended to read as follows:

554.4104 DEFINITIONS AND INDEX OF DEFINITIONS.

1. In this Article, unless the context otherwise requires:

a. "Account" means any deposit or credit account with a bank ~~and includes~~, including a ~~checking, time, interest or savings account~~ demand, time, savings, passbook, share draft, or like account, other than an account evidenced by a certificate of deposit;

b. "Afternoon" means the period of a day between noon and midnight;

c. "Banking day" means ~~that~~ the part of ~~any~~ a day on which a bank is open to the public for carrying on substantially all of its banking functions but for the purposes of determining a bank's midnight deadline, shall not include Saturday, Sunday, or any holiday when the federal reserve banks are not performing check clearing functions;

d. "Clearing house" means ~~any~~ an association of banks or other payors regularly clearing items;

e. "Customer" means ~~any~~ a person having an account with a bank or for whom a bank has agreed to collect items ~~and includes~~, including a bank ~~carrying~~ that maintains an account ~~with~~ at another bank;

f. "Documentary draft" means ~~any negotiable or nonnegotiable draft with accompanying documents, securities or other papers to be delivered against honor of the draft~~ a draft to be presented for acceptance or payment if specified documents, certificated securities (section 554.8102) or instructions for uncertificated securities (section 554.8308) or other certificates, statements, or the like are to be received by the drawee or other payor before acceptance or payment of the draft;

g. "Draft" means a draft as defined in section 554.3104 or an item, other than an instrument, that is an order;

h. "Drawee" means a person ordered in a draft to make payment;

i. "Item" means ~~any instrument for the payment of money even though it is not negotiable but does not include money~~ an instrument or a promise or order to pay money handled by a bank for collection or payment. The term does not include a payment order governed by Article 12 or a credit or debit card slip;

~~h~~ j. "Midnight deadline" with respect to a bank is midnight on its next banking day following the banking day on which it receives the relevant item or notice or from which the time for taking action commences to run, whichever is later;

~~i. "Properly payable" includes the availability of funds for payment at the time of decision to pay or dishonor;~~

~~j~~ k. "Settle" means to pay in cash, by clearing house settlement, in a charge or credit or by remittance, or otherwise as ~~instructed~~ agreed. A settlement may be either provisional or final;

~~k~~ l. "Suspends payments" with respect to a bank means that it has been closed by order of the supervisory authorities, that a public officer has been appointed to take it over, or that it ceases or refuses to make payments in the ordinary course of business.

2. Other definitions applying to this Article and the sections in which they appear are:

"Agreement for electronic presentment".	Section 554.4110.
"Bank".	Section 554.4105.
"Collecting bank".	Section 554.4105.
"Depositary bank".	Section 554.4105.
"Intermediary bank".	Section 554.4105.
"Payor bank".	Section 554.4105.
"Presenting bank".	Section 554.4105.
~~"Remitting bank".~~	~~Section 554.4105.~~
"Presentment notice".	Section 554.4110.

3. The following definitions in other Articles apply to this Article:

"Acceptance".	Section ~~554.3410~~ 554.3409.
"Alteration".	Section 554.3407.
"Cashiers check".	Section 554.3104.
"Certificate of deposit".	Section 554.3104.
~~"Certification".~~	~~Section 554.3411.~~
"Certified check".	Section 554.3409.
"Check".	Section 554.3104.
*"Draft".	Section 554.3104.
"Good faith".	Section 554.3103.
"Holder in due course".	Section 554.3302.
"Instrument".	Section 554.3104.
"Notice of dishonor".	Section ~~554.3508~~ 554.3503.
"Order".	Section 554.3103.

*Not included in Uniform Act

"Ordinary care".	Section 554.3103.
"Person entitle to enforce".	Section 554.3301.
"Presentment".	Section ~~554.3504~~ 554.3501.
~~"Protest".~~	~~Section 554.3509.~~
~~"Secondary party".~~	~~Section 554.3102.~~
"Promise".	Section 554.3103.
"Prove".	Section 554.3103.
"Teller's check".	Section 554.3104.
"Unauthorized signature".	Section 554.3403.

4. In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Sec. 82. Section 554.4105, Code 1993, is amended to read as follows:

554.4105 "BANK" – "DEPOSITARY BANK" – "INTERMEDIARY BANK" – "COLLECTING BANK" – "PAYOR BANK" – "PRESENTING BANK" – ~~"REMITTING BANK"~~.

In this Article ~~unless the context otherwise requires~~:

1. "Bank" means a person engaged in the business of banking, including a savings bank, savings and loan association, credit union, or trust company;

~~a~~ 2. "Depositary bank" means the first bank to ~~which~~ take an item is* ~~transferred for collection~~ even though it is also the payor bank, unless the item is presented for immediate payment over the counter;

~~b~~ 3. "Payor bank" means a bank ~~by which an item is payable as drawn or accepted~~ that is the drawee of the draft;

~~c~~ 4. "Intermediary bank" means ~~any~~ a bank to which an item is transferred in course of collection except the depositary or payor bank;

~~d~~ 5. "Collecting bank" means ~~any~~ a bank handling ~~the~~ an item for collection except the payor bank;

~~e~~ 6. "Presenting bank" means ~~any~~ a bank presenting an item except a payor bank;

~~f. "Remitting bank" means any payor or intermediary bank remitting for an item~~.

Sec. 83. Section 554.4106, Code 1993, is amended to read as follows:

554.4106 SEPARATE OFFICE OF A BANK.

A branch or separate office of a bank is a separate bank for the purpose of computing the time within which and determining the place at or to which action may be taken or notices or orders ~~shall~~ must be given under this Article and under Article 3.

Sec. 84. Section 554.4107, Code 1993, is amended to read as follows:

554.4107 TIME OF RECEIPT OF ITEMS.

1. For the purpose of allowing time to process items, prove balances, and make the necessary entries on its books to determine its position for the day, a bank may fix an afternoon hour of two P.M. or later as a cutoff hour for the handling of money and items and the making of entries on its books.

2. ~~Any~~ An item or deposit of money received on any day after a cutoff hour so fixed or after the close of the banking day may be treated as being received at the opening of the next banking day.

Sec. 85. Section 554.4108, Code 1993, is amended to read as follows:

554.4108 DELAYS.

1. Unless otherwise instructed, a collecting bank in a good faith effort to secure payment ~~may, in the case~~ of a specific ~~items~~ item drawn on a payor other than a bank, and with or without the approval of any person involved, may waive, modify, or extend time limits imposed or permitted by this chapter for a period not ~~in excess of an~~ exceeding two additional banking ~~day~~ days without discharge of ~~secondary parties and without~~ drawers or endorsers or liability to its transferor or ~~any~~ a prior party.

*The word "is" stricken in Uniform Act

2. Delay by a collecting bank or payor bank beyond time limits prescribed or permitted by this chapter or by instructions is excused if (i) the delay is caused by interruption of communication facilities, suspension of payments by another bank, war, emergency conditions, failure of equipment, or other circumstances beyond the control of the bank ~~provided it~~ and (ii) the bank exercises such diligence as the circumstances require.

Sec. 86. NEW SECTION. 554.4110 ELECTRONIC PRESENTMENT.

1. "Agreement for electronic presentment" means an agreement, clearing-house rule, or federal reserve regulation or operating circular, providing that presentment of an item may be made by transmission of an image of an item or information describing the item ("presentment notice") rather than delivery of the item itself. The agreement may provide for procedures governing retention, presentment, payment, dishonor, and other matters concerning items subject to the agreement.

2. Presentment of an item pursuant to an agreement for presentment is made when the presentment notice is received.

3. If presentment is made by presentment notice, a reference to "item" or "check" in the Article means the presentment notice unless the context otherwise indicates.

Sec. 87. NEW SECTION. 554.4111 PAYABLE THROUGH OR PAYABLE AT BANK — COLLECTING BANK.

1. If an item states that it is "payable through" a bank identified in the item, (i) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the time,* and (ii) the item may be presented for payment only by or through the bank.

2. If an item states that it is "payable at" a bank identified in the item, (i) the item designates the bank as a collecting bank and does not by itself authorize the bank to pay the item, and (ii) the item may be presented for payment only by or through the bank.

3. If a draft names a nonbank drawee and it is unclear whether a bank named in the draft is a co-drawee or a collecting bank, the bank is a collecting bank.

Sec. 88. Section 554.4201, Code 1993, is amended to read as follows:

554.4201 ~~PRESUMPTION AND DURATION OF AGENCY~~ STATUS OF COLLECTING ~~BANKS~~** AS AGENT AND PROVISIONAL STATUS OF CREDITS — APPLICABILITY OF ARTICLE — ITEM ENDORSED "PAY ANY BANK".

1. Unless a contrary intent clearly appears and ~~prior to~~ before the time that a settlement given by a collecting bank for an item is or becomes final, ~~(subsection 3 of section 554.4211 and sections 554.4212 and 554.4213)~~ the bank, with respect to the item, is an agent or subagent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of endorsement or lack of endorsement and even though credit given for the item is subject to immediate withdrawal as of right or is in fact withdrawn; but the continuance of ownership of an item by its owner and any rights of the owner to proceeds of the item are subject to rights of a collecting bank, such as those resulting from outstanding advances on the item and ~~valid~~ rights of recoupment or setoff. ~~When~~ If an item is handled by banks for purposes of presentment, payment, ~~and~~ collection, or return, the relevant provisions of this Article apply even though action of the parties clearly establishes that a particular bank has purchased the item and is the owner of it.

2. After an item has been endorsed with the words "pay any bank" or the like, only a bank may acquire the rights of a holder until the item has been:

a. ~~until the item has been~~ returned to the customer initiating collection; or

b. ~~until the item has been~~ specially endorsed by a bank to a person who is not a bank.

Sec. 89. Section 554.4202, Code 1993, is amended to read as follows:

554.4202 RESPONSIBILITY FOR COLLECTION OR RETURN — WHEN ACTION ~~SEASONABLE~~ TIMELY.

1. A collecting bank must ~~use~~ exercise ordinary care in:

a. presenting an item or sending it for presentment; ~~and~~

*The word "item" used in Uniform Act

**The underscored word "Bank" added in Uniform Act

b. sending notice of dishonor or nonpayment or returning an item other than a documentary draft to the bank's transferor ~~or directly to the depositary bank under subsection 2 of section 554.4212~~ after learning that the item has not been paid or accepted, as the case may be; ~~and~~

c. settling for an item when the bank receives final settlement; and

d. ~~making or providing for any necessary protest; and~~

~~e.~~ notifying its transferor of any loss or delay in transit within a reasonable time after discovery thereof.

2. A collecting bank ~~taking proper action before its midnight deadline following receipt of an item, notice or payment acts seasonably; taking proper action within a reasonably longer time may be seasonable but the bank has the burden of so establishing~~ exercises ordinary care under subsection 1 by taking proper action before its midnight deadline following receipt of an item, notice, or settlement. Taking proper action within a reasonably longer time may constitute the exercise of ordinary care, but the bank has the burden of establishing timeliness.

3. Subject to subsection 1, paragraph "a" a bank is not liable for the insolvency, neglect, misconduct, mistake, or default of another bank or person or for loss or destruction of an item in the possession of others or in transit ~~or in the possession of others~~.

Sec. 90. Section 554.4203, Code 1993, is amended to read as follows:

554.4203 EFFECT OF INSTRUCTIONS.

Subject to ~~the provisions of~~ Article 3 concerning conversion of instruments (section ~~554.3419~~ 554.3420) and ~~the provisions of both Article 3 and this Article concerning~~ restrictive endorsements (section 554.3206) only a collecting bank's transferor can give instructions ~~which~~ that affect the bank or constitute notice to it, and a collecting bank is not liable to prior parties for any action taken pursuant to ~~such~~ the instructions or in accordance with any agreement with its transferor.

Sec. 91. Section 554.4204, Code 1993, is amended to read as follows:

554.4204 METHODS OF SENDING AND PRESENTING – SENDING ~~DIRECT~~ DIRECTLY TO PAYOR BANK.

1. A collecting bank ~~must~~ shall send items by a reasonably prompt method, taking into consideration ~~any~~ relevant instructions, the nature of the item, the number of ~~such~~ those items on hand, ~~and~~ the cost of collection involved, and the method generally used by it or others to present ~~such~~ those items.

2. A collecting bank may send:

a. ~~any~~ an item ~~direct~~ directly to the payor bank;

b. ~~any~~ an item to ~~any~~ a nonbank payor if authorized by its transferor; and

c. ~~any~~ an item other than documentary drafts to any nonbank payor, if authorized by Federal Reserve regulation or operating ~~letter~~ circular, clearing house rule, or the like.

3. Presentment may be made by a presenting bank at a place where the payor bank or other payor has requested that presentment be made.

Sec. 92. Section 554.4205, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

554.4205 DEPOSITORY BANK HOLDER OF UNENDORSED ITEM.

If a customer delivers an item to a depositary bank for collection:

1. The depository bank becomes a holder of the item at the time it receives the item for collection if the customer at the time of delivery was a holder of the item, whether or not the customer endorse the item, and, if the bank satisfies the other requirements of section 554.3302, it is a holder in due course; and

2. The depository bank warrants to collecting banks, the payor bank or other payor, and the drawer that the amount of the item was paid to the customer or deposited to the customer's account.

Sec. 93. Section 554.4206, Code 1993, is amended to read as follows:

554.4206 TRANSFER BETWEEN BANKS.

Any agreed method ~~which~~ that identifies the transferor bank is sufficient for the item's further transfer to another bank.

Sec. 94. Section 554.4207, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

554.4207 TRANSFER WARRANTIES.

1. A customer or collecting bank that transfers an item and receives a settlement or other consideration warrants to the transferee and to any subsequent collecting bank that:

a. the warrantor is a person entitled to enforce the item;

b. all signatures on the item are authentic and authorized;

c. the item has not been altered;

d. the item is not subject to a defense or claim in recoupment (section 554.3305, subsection 1) of any party than can be asserted against the warrantor; and

e. the warrantor has no knowledge of any insolvency proceeding commenced with respect to the maker or acceptor or, in the case of an unaccepted draft, the drawer.

2. If an item is dishonored, a customer or collecting bank transferring the item and receiving settlement or other consideration is obliged to pay the amount due on the item (i) according to the terms of the item at the time it was transferred, or (ii) if the transfer was an incomplete item, according to its terms when completed as stated in sections 554.3115 and 554.3407. The obligation of a transferor is owed to the transferee and to any subsequent collecting bank that takes the item in good faith. A transferor cannot disclaim its obligation under this subsection by an endorsement stating that it is made "without recourse" or otherwise disclaiming liability.

3. A person to whom the warranties under subsection 1 are made and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, but not more than the amount of the item plus expenses and loss of interest incurred as a result of the breach.

4. The warranties stated in subsection 1 cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor within sixty days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

5. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Sec. 95. Section 554.4208, Code 1993, is amended to read as follows:

554.4208 SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING DOCUMENTS AND PROCEEDS.

1. A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

a. in case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

b. in case of an item for which it has given, credit available for withdrawal as of right, to the extent of the credit given whether or not the credit is drawn upon ~~and whether~~ or ~~not~~ there is a right of charge-back; or

c. if it makes an advance on or against the item.

2. ~~When~~ If credit ~~which has been~~ given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

3. Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents and proceeds. ~~To the extent and so~~ So long as the bank does not receive final settlement for the item or give up possession of the item

or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to ~~the provisions of~~ Article 9 ~~except that~~, but:

a. no security agreement is necessary to make the security interest enforceable (~~subsection 1 "b" of~~ section ~~554.9203~~ 554.9203, subsection 1, paragraph "a"); ~~and~~

b. no filing is required to perfect the security interest; and

c. the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Sec. 96. Section 554.4209, Code 1993, is amended to read as follows:

554.4209 WHEN BANK GIVES VALUE FOR PURPOSES OF HOLDER IN DUE COURSE.

For purposes of determining its status as a holder in due course, ~~the~~ a bank has given value to the extent ~~that~~ it has a security interest in an item ~~provided that~~, if the bank otherwise complies with the requirements of section 554.3302 on what constitutes a holder in due course.

Sec. 97. Section 554.4210, Code 1993, is amended to read as follows:

554.4210 PRESENTMENT BY NOTICE OF ITEM NOT PAYABLE BY, THROUGH, OR AT A BANK — ; LIABILITY OF ~~SECONDARY PARTIES~~ DRAWER OR ENDORSER.

1. Unless otherwise instructed, a collecting bank may present an item not payable by, through or at a bank by sending to the party to accept or pay a written notice that the bank holds the item for acceptance or payment. The notice must be sent in time to be received on or before the day when presentment is due and the bank must meet any requirement of the party to accept or pay under section ~~554.3505~~ 554.3501 by the close of the bank's next banking day after it knows of the requirement.

2. ~~Where~~ If presentment is made by notice and ~~neither honor nor~~ payment, acceptance, or request for compliance with a requirement under section ~~554.3505~~ 554.3501 is received* by the close of business on the day after maturity or, in the case of demand items, by the close of business on the third banking day after notice was sent, the presenting bank may treat the item as dishonored and charge any ~~secondary party~~ drawer or endorser by sending ~~the secondary party~~ it notice of the facts.

Sec. 98. Section 554.4211, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

554.4211 MEDIUM AND TIME OF SETTLEMENT BY BANK.

1. With respect to settlement by a bank, the medium and time for settlement may be prescribed by federal reserve regulations or circulars, clearing-house rules, and the like, or agreement. In the absence of such prescription:

a. the medium of settlement is cash or credit to an account in a federal reserve bank of or specified by the person to receive settlement; and

b. the time of settlement is:

(1) with respect to tender of settlement by cash, a cashier's check, or teller's check, when the case** or check is sent or delivered.

(2) with respect to tender of settlement by credit in an account in a federal reserve bank, when the credit is made.

(3) with respect to tender of settlement by a credit or debit to an account in a bank, when the credit or debit made*** or, in the case of tender of settlement by authority to charge an account, when the authority is sent or delivered; or

(4) with respect to tender of settlement by a funds transfer, when payment is made pursuant to section 554.12406, subsection 1 to the person receiving the settlement.

2. If the tender of settlement is not by a medium authorized by subsection 1 or the time of settlement is not fixed by subsection 1, no settlement occurs until the tender of settlement is accepted by the person receiving the settlement.

3. If settlement for an item is made by cashier's check or teller's check and the person receiving settlement, before its midnight deadline:

a. presents or forwards the check for collection, settlement is final when the check is finally paid; or

*Uniform Act states "not received"

**The word "cash" used in Uniform Act

***The term "is made" used in Uniform Act

b. fails to present or forward the check for collection, settlement is final at the midnight deadline of the person receiving settlement.

4. If settlement for an item is made by giving authority to charge the account of the bank giving settlement in the bank receiving settlement, settlement is final when the charge is made by the bank receiving settlement if there are funds available in the account for the amount of the item.

Sec. 99. Section 554.4212, Code 1993, is amended to read as follows:

554.4212 RIGHT OF CHARGE-BACK OR REFUND — LIABILITY OF COLLECTING BANK — RETURN OF ITEM.

1. If a collecting bank has made provisional settlement with its customer for an item and ~~itself~~ fails by reason of dishonor, suspension of payments by a bank, or otherwise to receive ~~a~~ settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account, or obtain refund from its customer whether or not it is able to return the ~~items~~ item, if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. If the return or notice is delayed beyond the bank's midnight deadline or a longer reasonable time after it learns the facts, the bank may revoke the settlement, charge back the credit, or obtain refund from its customer, but it is liable for any loss resulting from the delay. These rights to revoke, charge back and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final ~~(subsection 3 of section 554.4211 and subsections 2 and 3 of section 554.4213)~~.

~~2. Within the time and manner prescribed by this section and section 554.4301, an intermediary or payor bank, as the case may be, may return an unpaid item directly to the depositary bank and may send for collection a draft on the depositary bank and obtain reimbursement. In such case, if the depositary bank has received provisional settlement for the item, it must reimburse the bank drawing the draft and any provisional credits for the item between banks shall become and remain final.~~

2. A collecting bank returns an item when it is sent or delivered to the bank's customer or transferor or pursuant to its instructions.

3. A depositary bank ~~which~~ that is also the payor may charge back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payor bank for credit on its books (section 554.4301).

4. The right to charge-back is not affected by:

a. ~~prior~~ previous use of ~~the~~ a credit given for the item; or

b. failure by any bank to exercise ordinary care with respect to the item, but ~~any~~ a bank so failing remains liable.

5. A failure to charge-back or claim refund does not affect other rights of the bank against the customer or any other party.

6. If credit is given in dollars as the equivalent of the value of an item payable in ~~a~~ foreign ~~currency~~ money, the dollar amount of any charge-back or refund ~~shall~~ must be calculated on the basis of the ~~buying sight~~ bank-offered spot rate for the foreign ~~currency~~ money prevailing on the day when the person entitled to the charge-back or refund learns that it will not receive payment in ordinary course.

Sec. 100. Section 554.4213, Code 1993, is amended to read as follows:

554.4213 FINAL PAYMENT OF ITEM BY PAYOR BANK — WHEN PROVISIONAL DEBITS AND CREDITS BECOME FINAL — WHEN CERTAIN CREDITS BECOME AVAILABLE FOR WITHDRAWAL.

1. An item is finally paid by a payor bank when the bank has first done any of the following, ~~whichever happens first~~:

a. paid the item in cash; ~~or~~

b. settled for the item without ~~reserving~~ having a right to revoke the settlement ~~and without having such right~~ under statute, clearing house rule, or agreement; or

~~c. completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith; or~~

~~d~~ c. made a provisional settlement for the item and failed to revoke the settlement in the time and manner permitted by statute, clearing house rule, or agreement.

~~Upon a final payment under subparagraphs "b," "c" or "d" the payor bank shall be accountable for the amount of the item.~~

*2 3. If provisional settlement for an item between the presenting and payor banks is made through a clearing house or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payor banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the item by the payor bank.

~~3~~ 4. If a collecting bank receives a settlement for an item which is or becomes final ~~(subsection 3 of section 554.4211, subsection 2 of this section)~~ the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

~~4~~ 5. Subject to (i) applicable law stating a time for availability of funds and (ii) any right of the bank to apply the credit to an obligation of the customer, credit given by a bank for an item in ~~an account with its customer~~ a customer's account becomes available for withdrawal as of right:

a. ~~in any case where~~ if the bank has received a provisional settlement for the item, — when ~~such~~ the settlement becomes final and the bank has had a reasonable time to ~~learn that the settlement is final~~ receive return of the item and the item has not been received in that time;

b. ~~in any case where~~ if the bank is both ~~a~~ the depositary bank and ~~a~~ the payor bank, and the item is finally paid, — at the opening of the bank's second banking day following receipt of the item.

5. ~~A deposit of money in a bank is final when made but, subject~~ Subject to applicable law stating a time for availability of funds and any right of ~~the~~ a bank to apply ~~the~~ a deposit of money to an obligation of the customer, the deposit becomes available for withdrawal as of right at the opening of the bank's next banking day ~~following~~ after receipt of the deposit.

Sec. 101. Section 554.4214, Code 1993, is amended to read as follows:

554.4214 INSOLVENCY AND PREFERENCE.

1. ~~Any~~ If an item is in or ~~coming~~ comes into the possession of a payor or collecting bank ~~which~~ that suspends payment and ~~which~~ the item ~~is~~ has not been finally paid ~~shall~~, the item must be returned by the receiver, trustee, or agent in charge of the closed bank to the presenting bank or the closed bank's customer.

2. If a payor bank finally pays an item and suspends payments without making a settlement for the item with its customer or the presenting bank which settlement is or becomes final, the owner of the item has a preferred claim against the payor bank.

3. If a payor bank gives or a collecting bank gives or receives a provisional settlement for an item and thereafter suspends payments, the suspension does not prevent or interfere with the ~~settlement~~ settlements becoming final if ~~such~~ the finality occurs automatically upon the lapse of certain time or the happening of certain events ~~(subsection 3 of section 554.4211, subsections 1 "d", 2 and 3 of section 554.4213)~~.

4. If a collecting bank receives from subsequent parties settlement for an item which settlement is or becomes final and the bank suspends payments without making a settlement for the item with its customer which settlement is or becomes final, the owner of the item has a preferred claim against ~~such~~ the collecting bank.

Sec. 102. NEW SECTION. 554.4215 PRESENTMENT WARRANTIES.

1. If an unaccepted draft is presented to the drawee for payment or acceptance and the drawee pays or accepts the draft, (i) the person obtaining payment or acceptance, at the time of presentment, and (ii) a previous transferor of the draft, at the time of transfer, warrant to the drawee that pays or accepts the draft in good faith that:

*Uniform Act contains additional language pertaining to provisional settlements which are not final

a. the warrantor is, or was, at the time the warrantor transferred the draft, a person entitled to enforce the draft or authorized to obtain payment or acceptance of the draft on behalf of a person entitled to enforce the draft;

b. the draft has not been altered; and

c. the warrantor has no knowledge that the signature of the purported drawer of the draft is unauthorized.

2. A drawee making payment may recover from a warrantor damages for breach of warranty equal to the amount paid by the drawee less the amount the drawee received or is entitled to receive from the drawer because of the payment. In addition, the drawee is entitled to compensation for expenses and loss of interest resulting from the breach. The right of the drawee to recover damages under this subsection is not affected by any failure of the drawee to exercise ordinary care in making payment. If the drawee accepts the draft (i) breach of warranty is a defense to the obligation of the acceptor, and (ii) if the acceptor makes payment with respect to the draft, the acceptor is entitled to recover from a warrantor for breach of warranty the amounts stated in this subsection.

3. If a drawee asserts a claim for breach of warranty under subsection 1 based on an unauthorized endorsement of the draft or an alteration of the draft, the warrantor may defend by proving that the endorsement is effective under section 554.3404 or 554.3405 or the drawer is precluded under section 554.3406 or 554.4406 from asserting against the drawee the unauthorized endorsement or alteration.

4. If (i) a dishonored draft is presented for payment to the drawer or an endorser or (ii) any other item is presented for payment to a party obliged to pay the item, and the item is paid, the person obtaining payment and a prior transferor of the item warrant to the person making payment in good faith that the warrantor is, or was, at the time the warrantor transferred the item, a person entitled to enforce the item or authorized to obtain payment on behalf of a person entitled to enforce the item. The person making payment may recover from any warrantor for breach of warranty an amount equal to the amount paid plus expenses and loss of interest resulting from the breach.

5. The warranties stated in subsections 1 and 4 cannot be disclaimed with respect to checks. Unless notice of a claim for breach of warranty is given to the warrantor with* sixty days after the claimant has reason to know of the breach and the identity of the warrantor, the warrantor is discharged to the extent of any loss caused by the delay in giving notice of the claim.

6. A cause of action for breach of warranty under this section accrues when the claimant has reason to know of the breach.

Sec. 103. NEW SECTION. 554.4216 ENCODING AND RETENTION WARRANTIES.

1. A person who encodes information on or with respect to an item after issue warrants to any subsequent collecting bank and to the payor bank or other payor that the information is correctly encoded. If the customer of a depositary bank encodes, that bank also makes the warranty.

2. A person who undertakes to retain an item pursuant to an agreement for electronic presentment warrants to any subsequent collecting bank and to the payor bank or other payor that retention and presentment of the item comply with the agreement. If a customer of a depository bank undertakes to retain an item, that bank also makes this warranty.

3. A person to whom warranties are made under this section and who took the item in good faith may recover from the warrantor as damages for breach of warranty an amount equal to the loss suffered as a result of the breach, plus expenses and loss of interest incurred as a result of the breach.

Sec. 104. Section 554.4301, Code 1993, is amended to read as follows:

554.4301 DEFERRED POSTING — RECOVERY OF PAYMENT BY RETURN OF ITEMS — TIME OF DISHONOR — RETURN OF ITEMS BY PAYOR BANK.

1. ~~Where an authorized settlement~~ If a payor settles for a demand item ~~(~~other than a documentary draft~~)~~ ~~received by a payor bank~~ presented otherwise than for immediate payment over

*The word "within" used in Uniform Act

the counter ~~has been made~~ before midnight of the banking day of receipt, the payor bank may revoke the settlement and recover ~~any~~ the payment settlement if, before it has made final payment ~~(subsection 1 of section 554.4213)~~ and before its midnight deadline, it

a. returns the item; or

b. sends written notice of dishonor or nonpayment if the item is ~~held for protest or is otherwise~~ unavailable for return; and the item or notice includes the reason for dishonor or nonpayment.

2. If a demand item is received by a payor bank for credit on its books, it may return ~~such~~ the item or send notice of dishonor and may revoke any credit given or recover the amount thereof withdrawn by its customer, if it acts within the time limit and in the manner specified in ~~the preceding~~ subsection 1.

3. Unless previous notice of dishonor has been sent, an item is dishonored at the time when for purposes of dishonor it is returned or notice sent, in accordance with this section.

4. An item is returned:

a. as to an item ~~received~~ presented through a clearing house, when it is delivered to the presenting or last collecting bank or to the clearing house or is sent or delivered in accordance with ~~its~~ clearing house rules; or

b. in all other cases, when it is sent or delivered to the bank's customer or transferor or pursuant to that customer's or transferor's instructions.

Sec. 105. Section 554.4302, Code 1993, is amended to read as follows:

554.4302 PAYOR BANK'S RESPONSIBILITY FOR LATE RETURN OF ITEM.

1. ~~In the absence of a valid defense such as breach of a presentment warranty (subsection 1 of section 554.4207), settlement effected or the like, if~~ If an item is presented ~~on~~ to and received by a payor bank, the bank is accountable for the amount of:

a. a demand item, other than a documentary draft, whether properly payable or not, if the bank, in any case ~~where~~ in which it is not also the depositary bank, retains the item beyond midnight of the banking day of receipt without settling for it or, ~~regardless of~~ whether or not it is also the depositary bank, does not pay or return the item or send notice of dishonor until after its midnight deadline; or

b. any other properly payable item unless, within the time allowed for acceptance or payment of that item, the bank either accepts or pays the item or returns it and accompanying documents.

2. The liability of a payor bank to pay an item pursuant to subsection 1 is subject to defenses based on breach of a presentment warranty (section 554.4215) or proof that the person seeking enforcement of the liability presented or transferred the item for the purpose of defrauding the payor bank.

Sec. 106. Section 554.4303, Code 1993, is amended to read as follows:

554.4303 WHEN ITEMS SUBJECT TO NOTICE, ~~STOP ORDER~~ STOP-PAYMENT ORDER, LEGAL PROCESS, OR SETOFF – ORDER IN WHICH ITEMS MAY BE CHARGED OR CERTIFIED.

1. Any knowledge, notice, or ~~stop order~~ stop-payment order received by, legal process served upon, or setoff exercised by a payor bank~~, whether or not effective under other rules of law~~ comes too late to terminate, suspend, or modify the bank's right or duty to pay an item or to charge its customer's account for the item~~, comes too late to so terminate, suspend or modify such right or duty~~ if the knowledge, notice, ~~stop order~~ stop-payment order, or legal process is received or served and a reasonable time for the bank to act thereon expires or the setoff is exercised after the ~~bank has done any~~ earliest of the following:

a. ~~accepted or certified~~ the bank accepts or certifies the item;

b. ~~paid~~ the bank pays the item in cash;

c. ~~settled~~ the bank settles for the item without ~~reserving~~ having a right to revoke the settlement ~~and without having such right~~ under statute, clearing house rule, or agreement;

~~d. completed the process of posting the item to the indicated account of the drawer, maker or other person to be charged therewith or otherwise has evidenced by examination of such indicated account and by action its decision to pay the item;~~ or

e d. ~~become~~ the bank becomes accountable for the amount of the item under ~~subsection 1 "d" of section 554.4213 and~~ section 554.4302 dealing with the payor bank's responsibility for late return of items.~~;~~ or

e. with respect to checks, a cutoff hour no earlier than one hour after the opening of the next banking day after the banking day on which the bank received the check and no later than the close of that next banking day or, if no cutoff hour is fixed, the close of the next banking day after the banking day on which the bank received the check.

2. Subject to ~~the provisions of~~ subsection 1 items may be accepted, paid, certified or charged to the indicated account of its customer in any order ~~convenient to the bank~~.

Sec. 107. Section 554.4401, Code 1993, is amended to read as follows:

554.4401 WHEN BANK MAY CHARGE CUSTOMER'S ACCOUNT.

1. ~~As against its customer, a~~ A bank may charge against the customer's* account ~~any~~ of a customer an item ~~which~~ that is ~~otherwise~~ properly payable from that account even though the charge creates an overdraft. An item is properly payable if it is authorized by the customer and is in accordance with any agreement between the customer and bank.

2. A customer is not liable for the amount of an overdraft if the customer neither signed the item nor benefited from the proceeds of the item.

3. A bank may charge against the account of a customer a check that is otherwise properly payable from the account, even though payment was made before the date of the check, unless the customer has given notice to the bank of the postdating describing the check with reasonable certainty. The notice is effective for the period stated in section 554.4403, subsection 2, for stop-payment orders, and must be received at such time and in such manner as to afford the bank a reasonable opportunity to act on it before the bank takes any action with respect to the check described in section 554.4303. If a bank charges against the account of a customer a check before the date stated in the notice of postdating, the bank is liable for damages for the loss resulting from its act. The loss may include damages for dishonor of subsequent items under section 554.4402.

~~2~~ 4. A bank ~~which~~ that in good faith makes payment to a holder may charge the indicated account of its customer according to:

a. the original ~~tenor~~ terms of the customer's altered item; or

b. the ~~tenor~~ terms of the customer's completed item, even though the bank knows the item has been completed unless the bank has notice that the completion was improper.

Sec. 108. Section 554.4402, Code 1993, is amended to read as follows:

554.4402 BANK'S LIABILITY TO CUSTOMER FOR WRONGFUL DISHONOR — TIME OF DETERMINING INSUFFICIENCY OF ACCOUNT.

1. Except as otherwise provided in this Article, a payor bank wrongfully dishonors an item if it dishonors an item that is properly payable, but a bank may dishonor an item that would create an overdraft unless it has agreed to pay the overdraft.

2. A payor bank is liable to its customer for damages proximately caused by the wrongful dishonor of an item. ~~When the dishonor occurs through mistake liability~~ Liability is limited to actual damages proved. ~~If so proximately caused and proved damages~~ and may include damages for an arrest or prosecution of the customer or other consequential damages. Whether any consequential damages are proximately caused by the wrongful dishonor is a question of fact to be determined in each case.

3. A payor bank's determination of the customer's account balance on which a decision to dishonor for insufficiency of available funds is based may be made at any time between the time the item is received by the payor bank and the time that the payor bank returns the item or gives notice in lieu of return, and no more than one determination need be made. If,

*The word "customer's" stricken in Uniform Act

at the election of the payor bank, a subsequent balance determination is made for the purposes of reevaluating the bank's decision to dishonor the item, the account balance at the time is determinative of whether a dishonor for insufficiency of available funds is wrongful.

Sec. 109. Section 554.4403, Code 1993, is amended to read as follows:

554.4403 CUSTOMER'S RIGHT TO STOP PAYMENT — BURDEN OF PROOF OF LOSS.

1. A customer ~~may by order to the customer's bank stop payment of any item payable for the customer's account but the order must be~~ or any person authorized to draw on the account if there is more than one person may stop payment of an item drawn on the customer's account or close the account by an order to the bank describing the item or account with reasonable certainty received at ~~such~~ a time and in ~~such~~ a manner ~~as to afford~~ that affords the bank a reasonable opportunity to act on it ~~prior to~~ before any action by the bank with respect to the item described in section 554.4303. If the signature of more than one person is required to draw on an account, any of these persons may stop payment or close the account.

2. ~~An oral order is binding upon the bank only for fourteen calendar days unless confirmed in writing within that period. A written order is effective for only six months unless renewed in writing~~ A stop-payment order is effective for six months, but it lapses after fourteen calendar days if the original order was oral and was not confirmed in writing within that period. A stop-payment order may be renewed for additional six-month periods by a writing given to the bank within a period during which the stop-payment order is effective.

3. The burden of establishing the fact and amount of loss resulting from the payment of an item contrary to a ~~binding stop payment~~ stop-payment order or order to close an account is on the customer. The loss from payment of an item contrary to a stop-payment order may include damages for dishonor of subsequent items under section 554.4402.

Sec. 110. Section 554.4405, Code 1993, is amended to read as follows:

554.4405 DEATH OR INCOMPETENCE OF CUSTOMER.

1. A payor or collecting bank's authority to accept, pay, or collect an item or to account for proceeds of its collection, if otherwise effective, is not rendered ineffective by incompetence of a customer of either bank existing at the time the item is issued or its collection is undertaken if the bank does not know of an adjudication of incompetence. Neither death nor incompetence of a customer revokes ~~such~~ the authority to accept, pay, collect or account until the bank knows of the fact of death or of an adjudication of incompetence and has reasonable opportunity to act on it.

2. Even with knowledge, a bank may for ten days after the date of death pay or certify checks drawn on or ~~prior to~~ before that date unless ordered to stop payment by a person claiming an interest in the account.

Sec. 111. Section 554.4406, Code 1993, is amended to read as follows:

554.4406 CUSTOMER'S DUTY TO DISCOVER AND REPORT UNAUTHORIZED SIGNATURE OR ALTERATION.

1. ~~When a bank sends to its customer a statement of account accompanied by items paid in good faith in support of the debit entries or holds the statement and items pursuant to a request or instructions of its customer or otherwise in a reasonable manner makes the statement and items available to the customer, the customer must exercise reasonable care and promptness to examine the statement and items to discover the customer's unauthorized signature or any alteration on an item and must notify the bank promptly after discovery thereof.~~ A bank that sends or makes available to a customer a statement of account showing payment of items for the account shall either return or make available to the customer the items paid or provide information in the statement of account sufficient to allow the customer reasonably to identify the items paid. The statement of account provides sufficient information, if the item is described by item number, amount, and date of payment.

2. If the items are not returned to the customer, the person retaining the items shall either retain the items or, if the items are destroyed, maintain the capacity to furnish legible copies of the items until the expiration of eleven years after receipt of the items. A customer may

request an item from the bank that paid the item, and that bank must provide in a reasonable time either the item or, if the item has been destroyed or is not otherwise obtainable, a legible copy of the item.

3. If a bank sends or makes available a statement of account or items pursuant to subsection 1, the customer must exercise reasonable promptness in examining the statement or the items to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer must promptly notify the bank of the relevant facts.

2 4. If the bank ~~establishes~~ proves that the customer failed, with respect to an item, to comply with the duties imposed on the customer by subsection ~~1~~ 3 the customer is precluded from asserting against the bank:

a. the customer's unauthorized signature or any alteration on the item, if the bank also ~~establishes~~ proves that it suffered a loss by reason of ~~such~~ the failure; and

b. ~~an~~ the customer's unauthorized signature or alteration by the same wrongdoer on any other item paid in good faith by the bank ~~after the first item and statement was available to the customer for a reasonable period not exceeding fourteen calendar days and before the bank receives notification from the customer of any such unauthorized signature or alteration~~ if the payment was made before the bank received notice from the customer of the unauthorized signature or alteration and after the customer had been afforded a reasonable period of time, not exceeding sixty days, in which to examine the item or statement of account and notify the bank.

~~3. The preclusion under subsection 2 does not apply if the customer establishes lack of ordinary care on the part of the bank in paying the item(s).~~

5. If subsection 4 applies and the customer proves that the bank failed to exercise ordinary care in payment* the item and that the failure substantial** contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subsection 3 and the failure of the bank to exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subsection 4 does not apply.

4 6. Without regard to care or lack of care of either the customer or the bank, a customer who does not within one year ~~from the time~~ after the statement ~~and~~ or items are made available to the customer (subsection 1) discover and report the customer's unauthorized signature on or any alteration ~~on the face or back of the item or does not within three years from that time discover and report any unauthorized endorsement~~ on the item is precluded from asserting against the bank ~~such~~ the unauthorized signature or ~~endorsement or such~~ alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under section 554.4208 with respect to the unauthorized signature or alteration to which the preclusion applies.

~~5. If under this section a payor bank has a valid defense against a claim of a customer upon or resulting from payment of an item and waives or fails upon request to assert the defense the bank may not assert against any collecting bank or other prior party presenting or transferring the item a claim based upon the unauthorized signature or alteration giving rise to the customer's claim.~~

Sec. 112. Section 554.4407, Code 1993, is amended to read as follows:

554.4407 PAYOR BANK'S RIGHT TO SUBROGATION ON IMPROPER PAYMENT.

If a payor bank has paid an item over the ~~stop payment~~ order of the drawer or maker to stop payment, or after an account has been closed, or otherwise under circumstances giving a basis for objection by the drawer or maker, to prevent unjust enrichment and only to the extent necessary to prevent loss to the bank by reason of its payment of the item, the payor bank ~~shall be~~ is subrogated to the rights

a. of any holder in due course on the item against the drawer or maker; ~~and~~

b. of the payee or any other holder of the item against the drawer or maker either on the item or under the transaction out of which the item arose; and

*The word "paying" used in Uniform Act

**The word "substantially" used in Uniform Act

c. of the drawer or maker against the payee or any other holder of the item with respect to the transaction out of which the item arose.

Sec. 113. Section 554.4501, Code 1993, is amended to read as follows:

554.4501 HANDLING OF DOCUMENTARY DRAFTS — DUTY TO SEND FOR PRESENTMENT AND TO NOTIFY CUSTOMER OF DISHONOR.

A bank ~~which~~ that takes a documentary draft for collection ~~must~~ shall present or send the draft and accompanying documents for presentment and, upon learning that the draft has not been paid or accepted in due course ~~must~~, shall seasonably notify its customer of ~~such~~ the fact even though it may have discounted or bought the draft or extended credit available for withdrawal as of right.

Sec. 114. Section 554.4502, Code 1993, is amended to read as follows:

554.4502 PRESENTMENT OF "ON ARRIVAL" DRAFTS.

~~When~~ If a draft or the relevant instructions require presentment "on arrival", "when goods arrive" or the like, the collecting bank need not present until in its judgment a reasonable time for arrival of the goods has expired. Refusal to pay or accept because the goods have not arrived is not dishonor; the bank must notify its transferor of ~~such~~ the refusal but need not present the draft again until it is instructed to do so or learns of the arrival of the goods.

Sec. 115. Section 554.4503, Code 1993, is amended to read as follows:

554.4503 RESPONSIBILITY OF PRESENTING BANK FOR DOCUMENTS AND GOODS — REPORT OF REASONS FOR DISHONOR — REFEREE IN CASE OF NEED.

Unless otherwise instructed and except as provided in Article 5, a bank presenting a documentary draft:

a. must deliver the documents to the drawee on acceptance of the draft if it is payable more than three days after presentment; otherwise, only on payment; and

b. upon dishonor, either in the case of presentment for acceptance or presentment for payment, may seek and follow instructions from any referee in case of need designated in the draft or, if the presenting bank does not choose to utilize the referee's services, it must use diligence and good faith to ascertain the reason for dishonor, must notify its transferor of the dishonor and of the results of its effort to ascertain the reasons therefor, and must request instructions.

~~But~~ However, the presenting bank is under no obligation with respect to goods represented by the documents except to follow any reasonable instructions seasonably received; it has a right to reimbursement for any expense incurred in following instructions and to prepayment of or indemnity for ~~such~~ those expenses.

Sec. 116. Section 554.4504, subsection 1, Code 1993, is amended to read as follows:

1. A presenting bank ~~which~~ that, following the dishonor of a documentary draft, has seasonably requested instructions but does not receive them within a reasonable time may store, sell, or otherwise deal with the goods in any reasonable manner.

Sec. 117. Section 554.5103, subsection 3, Code 1993, is amended to read as follows:

3. Definitions in other Articles applying to this Article and the sections in which they appear are:

"Accept" or "Acceptance".	Section ~~554.3410~~ 554.3409.
"Contract for sale".	Section 554.2106.
"Draft".	Section 554.3104.
"Holder in due course".	Section 554.3302.
"Midnight deadline".	Section 554.4104.
"Security".	Section 554.8102.

Sec. 118. Section 554.9206, subsection 1, Code 1993, is amended to read as follows:

1. Subject to any statute or decision which establishes a different rule for buyers or lessees of consumer goods, an agreement by a buyer or lessee that the buyer or lessee will not assert against an assignee any claim or defense which the buyer or lessee may have against the seller or lessor is enforceable by an assignee who takes that assignee's assignment for value, in good faith and without notice of a claim or defense, except as to defenses of a type which may be asserted against a holder in due course of a negotiable instrument under the Article on ~~Commercial Paper~~ Negotiable Instruments (Article 3). A buyer who as part of one transaction signs both a negotiable instrument and a security agreement makes such an agreement.

Sec. 119. NEW SECTION. 668.16 APPLICABILITY OF THIS CHAPTER.

This chapter does not apply to Article 3 or 4 of chapter 554.

Sec. 120. DIRECTION TO CODE EDITOR.

The Code editor, in cooperation with the legislative service bureau and in conformity with the policies of the legislative council, is directed to renumber sections in this Act in conformance with the numbering system included in the model Act as recommended by the American law institute and national conference of commissioners on uniform state laws, and to correct internal references as necessary.

Sec. 121. REPEALS.

1. Sections 554.3101 through 554.3806, Code 1993, are repealed.
2. Section 554.4109, Code 1993, is repealed.

Sec. 122. EFFECTIVE DATE. This Act takes effect July 1, 1995.

Approved May 10, 1994

CHAPTER 1168

HEALTH CARE PROVIDERS – RURAL HEALTH AND PRIMARY CARE

H.F. 2422

AN ACT relating to health care providers and to the establishment of a primary care provider recruitment and retention endeavor and providing an appropriation.

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

Section 1. LEGISLATIVE FINDINGS. The general assembly finds that a significant number of rural Iowans face increasing difficulty accessing necessary primary care health services. The inequities of the current medical services reimbursement system, the closure of rural hospitals and clinics, the inability of small communities to attract new primary care providers, and the professional isolation that current primary care providers face in their practices contribute to the access problems experienced by Iowa's rural residents. Health care reform will significantly change the environment in which primary care is provided in Iowa. Rural communities must be supported in their strategies to ensure access to the benefits of affordable, accessible, and quality health care. New and innovative programs to assist these rural communities with this task must be promoted.

It is therefore the intent of the general assembly to create a comprehensive primary health care initiative to respond to these health needs. The purposes of the primary care provider recruitment and retention endeavor shall be the following:

1. To establish a student loan repayment program for health professionals who choose to establish practices in provider-shortage areas.

2. To establish a community scholarship program to provide students with assistance with their professional education in exchange for a commitment to return to the community and provide primary health care.

3. To initiate a collaborative effort to establish area health education centers.

4. To enable the center for rural health and primary care to help local communities identify current and evolving health care needs as well as innovative and collaborative options using local, state, and federal resources to help resolve those needs.

5. To provide for an appropriation by the general assembly that, when matched with federal, local, and other private funds, make possible the implementation of a comprehensive primary health care initiative as set out in this Act.

Sec. 2. Section 135.13, Code 1993, is amended to read as follows:

135.13 ~~OFFICE OF~~ CENTER FOR RURAL HEALTH AND PRIMARY CARE ESTABLISHED – DUTIES.

1. The ~~office of~~ center for rural health and primary care is established within the department. There is established an advisory committee to the ~~office of~~ center for rural health and primary care consisting of one representative, approved by the respective agency, of each of the following agencies: ~~the department of human services,~~ the department of agriculture and land stewardship, the Iowa department of public health, the department of inspections and appeals, the national institute for rural health policy, the rural health resource center, the institute of agricultural medicine and occupational health, and the Iowa state association of counties~~, and the health policy corporation of Iowa~~. The governor shall appoint two representatives of consumer groups active in rural health issues and a representative of each of two farm organizations active within the state, a representative of an agricultural business in the state, a practicing rural family physician, a practicing rural physician assistant, a practicing rural advanced registered nurse practitioner, and a rural health practitioner who is not a physician, physician assistant, or advanced registered nurse practitioner, as members of the advisory committee. ~~Two state senators appointed by the president of the senate, after consultation with the majority leader and the minority leader of the senate, and two state representatives appointed by the speaker of the house of representatives shall also be members of the advisory committee. Of the 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, not more than one from each house shall be a member of the same political party.~~ The advisory committee shall also include as members two state representatives, one appointed by the speaker of the house of representatives and one by the minority leader of the house, and two state senators, one appointed by the majority leader of the senate and one by the minority leader of the senate.

The advisory committee shall regularly meet with the administrative head of the ~~office~~ center as well as the director of the center for agricultural health and safety established under section 262.78. The head of the office and the director of the center shall consult with the advisory committee and provide the committee with relevant information regarding their agencies.

2. The ~~office of~~ center for rural health and primary care shall do all of the following:

a. Provide technical planning assistance ~~grants~~ to rural communities and counties exploring ~~alternative~~ innovative means of delivering rural health services through community health services assessment, planning, and implementation, including but not limited to hospital conversions, cooperative agreements among hospitals, physician and health practitioner support, recruitment and retention of primary health care providers, public health services, emergency medical services, medical assistance facilities, rural health care clinics, and alternative means which may be included in the long-term community health services assessment and developmental plan ~~developed under this paragraph or in a long-term plan developed through the rural health transition grant program pursuant to the federal Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, § 4005(e)~~. The ~~office of~~ center for rural health and primary care shall encourage collaborative efforts of the local boards of health, ~~and~~ hospital governing boards,

and other public and private entities located in rural communities to adopt a long-term community health services assessment and developmental plan ~~as provided in section 135B.33~~ pursuant to rules adopted by the department and perform the duties required of the Iowa department of public health in section 135B.33.

~~b. Provide competitive research grants, to be awarded by the advisory committee, to conduct economic analyses of the effects of health care restructuring models on rural communities, including but not limited to the employment effects on the community of redirecting funds to new areas of service, the overall effects of redirection of the funds on the number of health care dollars expended within the rural community, and the benefit to the health of patients of redirecting the funds.~~

~~c. The office of rural health shall make a report to the general assembly regarding the impact of the current compensation structure under medicare on rural hospitals and other health care providers, shall provide information regarding the current compensation system to Iowa's congressional delegation, and shall make recommendations to the general assembly regarding recommendations to be made to Iowa's congressional delegation to improve the compensation structure.~~

~~d. For the purposes of this section, "medicare" means the program of health insurance established under Title XVIII of the federal Social Security Act.~~

e b. Provide technical assistance to assist rural communities in improving medicare reimbursements through the establishment of rural health clinics, defined pursuant to 42 U.S.C. § 1395(x), and distinct part skilled nursing facility beds.

f c. Coordinate services to provide research for the following items:

(1) Examination of the prevalence of rural occupational health injuries in the state.

(2) Assessment of training and continuing education available through local hospitals and others relating to diagnosis and treatment of diseases associated with rural occupational health hazards.

(3) Determination of continuing education support necessary for rural health practitioners to diagnose and treat illnesses caused by exposure to rural occupational health hazards.

(4) Determination of the types of actions that can help prevent agricultural accidents.

(5) Surveillance and reporting of disabilities suffered by persons engaged in agriculture resulting from diseases or injuries, including identifying the amount and severity of agricultural-related injuries and diseases in the state, identifying causal factors associated with agricultural-related injuries and diseases, and indicating the effectiveness of intervention programs designed to reduce injuries and diseases.

g d. Cooperate with the center for agricultural health and safety established under section 262.78, the center for health effects of environmental contamination established under section 263.17, and the department of agriculture and land stewardship. The agencies shall coordinate programs to the extent practicable.

e. Administer grants for farm safety education efforts directed to rural families for the purpose of preventing farm-related injuries to children.

3. The center for rural health and primary care shall establish a primary care provider recruitment and retention endeavor, to be known as PRIMECARRE. The endeavor shall include a community grant program, a primary care provider loan repayment program, a primary care provider community scholarship program, and the establishment of area health education centers. The endeavor shall be developed and implemented in a manner to promote and accommodate local creativity in efforts to recruit and retain health care professionals to provide services in the locality. The focus of the endeavor shall be to promote and assist local efforts in developing health care provider recruitment and retention programs. Eligibility under any of the programs established under the primary care provider recruitment and retention endeavor shall be based upon a community health services assessment completed under subsection 2, paragraph "a". A community or region, as applicable, shall submit a letter of intent to conduct a community health services assessment and to apply for assistance under this subsection. The letter shall be in a form and contain information as determined by the center. A

letter of intent shall be submitted to the center by January 1 preceding the fiscal year for which an application for assistance is to be made. Assistance under this subsection shall not be granted until such time as the community or region making application has completed the community health services assessment and adopted a long-term community health services assessment and developmental plan. In addition to any other requirements, a developmental plan shall include a clear commitment to informing high school students of the health care opportunities which may be available to such students.

The center for rural health and primary care shall seek additional assistance and resources from other state departments and agencies, federal agencies and grant programs, private organizations, and any other person, as appropriate. The center is authorized and directed to accept on behalf of the state any grant or contribution, federal or otherwise, made to assist in meeting the cost of carrying out the purpose of this subsection. All federal grants to and the federal receipts of the center are appropriated for the purpose set forth in such federal grants or receipts. Funds appropriated by the general assembly to the center for implementation of this subsection shall first be used for securing any available federal funds requiring a state match, with remaining funds being used for the community grant program.

The center for rural health and primary care may, to further the purposes of this subsection, provide financial assistance in the form of grants to support the effort of a community which is clearly part of the community's long-term community health services assessment and developmental plan. Efforts for which such grants may be awarded include, but are not limited to, the procurement of clinical equipment, clinical facilities, and telecommunications facilities, and the support of locum tenens arrangements and primary care provider mentor programs.

a. COMMUNITY GRANT PROGRAM. The center for rural health and primary care shall adopt rules establishing an application process to be used by the center to establish a grant assistance program as provided in this paragraph, and establishing the criteria to be used in evaluating the applications. Selection criteria shall include a method for prioritizing grant applications based on illustrated efforts to meet the health care provider needs of the locality and surrounding area. Such assistance may be in the form of a forgivable loan, grant, or other nonfinancial assistance as deemed appropriate by the center. An application submitted shall contain a commitment of at least a dollar-for-dollar match of the grant assistance. Application may be made for assistance by a single community or group of communities.

Grants awarded under the program shall be subject to the following limitations:

(1) Ten thousand dollars for a single community or region with a population of ten thousand or less. An award shall not be made under this program to a community with a population of more than ten thousand.

(2) An amount not to exceed one dollar per capita for a region in which the population exceeds ten thousand. For purposes of determining the amount of a grant for a region, the population of the region shall not include the population of any community with a population of more than ten thousand located in the region.

b. PRIMARY CARE PROVIDER LOAN REPAYMENT PROGRAM.

(1) A primary care provider loan repayment program is established to increase the number of health professionals practicing primary care in federally designated health professional shortage areas of the state. Under the program, loan repayment may be made to a recipient for educational expenses incurred while completing an accredited health education program directly related to obtaining credentials necessary to practice the recipient's health profession.

(2) The center for rural health and primary care shall adopt rules relating to the establishment and administration of the primary care provider loan repayment program. Rules adopted pursuant to this paragraph shall provide, at a minimum, for all of the following:

(a) Determination of eligibility requirements and qualifications of an applicant to receive loan repayment under the program, including but not limited to years of obligated service which shall be for a minimum of ten years unless federal requirements for the program require differently, clinical practice requirements, and residency requirements. Loan repayment under the program shall not be approved for a health provider whose license or certification is restricted by a medical regulatory authority of any jurisdiction of the United States, other nations, or territories.

(b) Identification of federally designated health professional shortage areas of the state and prioritization of such areas according to need.

(c) Determination of the amount and duration of the loan repayment an applicant may receive, giving consideration to the availability of funds under the program, and the applicant's outstanding educational loans and professional credentials.

(d) Determination of the conditions of loan repayment applicable to an applicant.

(e) Enforcement of the state's rights under a loan repayment program contract, including the commencement of any court action.

(f) Cancellation of a loan repayment program contract for reasonable cause.

(g) Participation in federal programs supporting repayment of loans of health care providers and acceptance of gifts, grants, and other aid or amounts from any person, association, foundation, trust, corporation, governmental agency, or other entity for the purposes of the program.

(h) Upon availability of state funds, determine eligibility criteria and qualifications for participating communities and applicants not located in federally designated shortage areas.

(i) Other rules as necessary.

(3) The center for rural health and primary care may enter into an agreement under chapter 28E with the college student aid commission for the administration of this program.

c. PRIMARY CARE PROVIDER COMMUNITY SCHOLARSHIP PROGRAM.

(1) A primary care provider community scholarship program is established to recruit and to provide scholarships to train primary health care practitioners in federally designated health professional shortage areas of the state. Under the program, scholarships may be awarded to a recipient for educational expenses incurred while completing an accredited health education program directly related to obtaining the credentials necessary to practice the recipient's health profession.

(2) The department shall adopt rules relating to the establishment and administration of the primary care provider community scholarship program. Rules adopted pursuant to this paragraph shall provide, at a minimum, for all of the following:

(a) Determination of eligibility requirements and qualifications of an applicant to receive scholarships under the program, including but not limited to years of obligated service which shall be for a minimum of ten years unless federal requirements for the program require differently, clinical practice requirements, and residency requirements.

(b) Identification of federally designated health professional shortage areas of the state and prioritization of such areas according to need.

(c) Determination of the amount of the scholarship an applicant may receive.

(d) Determination of the conditions of scholarship to be awarded to an applicant.

(e) Enforcement of the state's rights under a scholarship contract, including the commencement of any court action.

(f) Cancellation of a scholarship contract for reasonable cause.

(g) Participation in federal programs supporting scholarships for health care providers and acceptance of gifts, grants, and other aid or amounts from any person, association, foundation, trust, corporation, governmental agency, or other entity for the purposes of the program.

(h) Upon availability of state funds, determination of eligibility criteria and qualifications for participating communities and applicants not located in federally designated shortage areas.

(i) Other rules as necessary.

(3) The center for rural health and primary care may enter into an agreement under chapter 28E with the college student aid commission for the administration of this program.

d. AREA HEALTH EDUCATION CENTERS.

(1) The Iowa department of public health, in cooperation with a primary care collaborative effort including the university of Iowa college of medicine, the university of osteopathic medicine and health sciences, and other primary care professional educational institutions in Iowa, shall develop and establish area health education centers. The effort shall involve making application for a federal grant under 42 U.S.C. § 293j, as prescribed by that section.

(2) Area health education centers shall, at a minimum, do all of the following:

(a) Provide initial and continuing education opportunities to primary care providers.

(b) Allow health professionals to consult with specialists, scholars, peers, and other health care professionals.

(c) Enable health professionals to access medical libraries and other research resources.

(d) Provide for enhanced opportunities for professional student programs, internships and residencies in primary care in rural areas.

(3) Points of access to area health education centers shall be geographically distributed across the state to improve services to all rural primary health care providers. Area health education centers shall utilize, to the extent feasible, current university residency programs, existing health care facilities, existing educational institutions, the Iowa communications network, and other appropriate resources to ensure access.

(4) Implementation of this lettered paragraph is contingent upon the receipt of federal funding awarded specifically for the implementation of area health education centers.

4. The director of public health shall establish a primary care collaborative work group to coordinate all statewide recruitment and retention activities established pursuant to this section and to make recommendations to the department and the center for rural health and primary care relating to the implementation of subsection 3. Membership of the work group shall consist, at a minimum, of representatives from the university of Iowa college of medicine, university of osteopathic medicine and health sciences, university of Iowa physician assistant school, university of Iowa nurse practitioner school, university of osteopathic medicine and health sciences physician assistant program, Iowa-Nebraska primary care association, Iowa medical society, Iowa osteopathic medical association, Iowa chapter of American college of osteopathic family physicians, Iowa academy of family physicians, nurse practitioner association, Iowa nurses association, Iowa hospital association, and Iowa physicians assistants association.

5. The department and the center for rural health and primary care shall submit a written report annually to the general assembly on or before February 1 concerning the implementation and coordination of all efforts of the primary care provider recruitment and retention endeavor established in subsection 3.

Sec. 3. CENTER FOR RURAL HEALTH AND PRIMARY CARE. There is appropriated from the general fund of the state to the Iowa department of public health for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the primary care provider recruitment and retention endeavor established in section 135.13, subsection 3:

..... $ 235,000

Funds appropriated under this section shall first be used to secure any available federal funds requiring a state match, with remaining funds being used for the community grant program established pursuant to section 135.13, subsection 3.

Approved May 10, 1994

CHAPTER 1169

VOTER REGISTRATION

S.F. 2223

†**AN ACT** relating to voter registration, implementing the federal National Voter Registration Act, and providing penalties and an effective date.

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

SUBCHAPTER I
GENERAL PROVISIONS

Section 1. NEW SECTION. 48A.1 STATEMENT OF INTENT.

It is the intent of the general assembly to facilitate the registration of eligible residents of this state through the widespread availability of voter registration services. This chapter and other statutes relating to voter registration are to be liberally construed toward this end.

Sec. 2. NEW SECTION. 48A.2 DEFINITIONS.

The definitions established by this section and section 39.3 shall apply wherever the terms so defined appear in this chapter, unless the context in which any such term is used clearly requires otherwise.

1. "Commissioner of registration" means the county commissioner of elections as defined in section 47.2.

2. "Homeless person" means a person who lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is one of the following:

a. A supervised publicly or privately operated shelter designed to provide temporary living accomodations.

b. An institution that provides a temporary residence for persons intended to be institutionalized.

c. A public or private place not designed for, or ordinarily used as, a regular sleeping accomodation for human beings.

3. "Mentally incompetent person" means a person who has been legally determined to be severely or profoundly mentally retarded, or has been found incompetent in a proceeding held pursuant to section 229.27.

4. "Voter registration agency" means an agency designated to conduct voter registration under section 48A.19. Offices of the driver services division of the state department of transportation are not voter registration agencies.

5. "Voter registration form" means an application to register to vote which must be completed by any person registering to vote.

Sec. 3. NEW SECTION. 48A.3 COMMISSIONER OF REGISTRATION.

The county commissioner of elections is designated the commissioner of registration for the county, and may appoint deputies and assistants, subject to the approval of the county board of supervisors, necessary to carry out the commissioner's responsibilities under this chapter and under rules of the state voter registration commission and the state registrar of voters.

Sec. 4. NEW SECTION. 48A.4 QUALIFICATION OF OFFICERS.

Before undertaking any voter registration duties, each voter registration officer, deputy, or assistant in whatever capacity, or clerk in the office of commissioner shall take an oath in the form prescribed by the state commissioner of elections.

SUBCHAPTER II
QUALIFICATIONS TO REGISTER TO VOTE

Sec. 5. NEW SECTION. 48A.5 VOTER QUALIFICATIONS.

1. An eligible elector wishing to vote in elections in Iowa shall register to vote as required by this chapter.

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

2. To be qualified to register to vote an eligible elector shall:

a. Be a citizen of the United States.

b. Be an Iowa resident. A person's residence, for voting purposes only, is the place which the person declares is the person's home with the intent to remain there permanently or for a definite, or indefinite or indeterminable length of time. A person who is homeless or has no established residence may declare residence in a precinct by describing on the voter registration form a place to which the person often returns.

c. Be at least eighteen years of age. Completed registration forms shall be accepted from registrants who are at least seventeen and a half years of age, however, the registration shall not be effective until the registrant reaches the age of eighteen.

d. Not claim the right to vote in more than one place. A registrant shall be presumed to revoke any earlier claim of residence for voter registration purposes.

3. If a person who meets the requirements set forth in subsection 2 moves to a new residence, either in Iowa or outside Iowa, and does not meet the voter requirements at the person's new residence, the person may vote at the person's former precinct in Iowa until the person meets the voter requirements of the person's new residence. However, a person who has moved to a new residence and fails to register to vote at the person's new residence after becoming eligible to do so shall not be entitled to vote at the person's former precinct in Iowa.

4. A citizen of the United States who lives outside of the United States has the right to register and vote as if the person were a resident of a precinct in Iowa if the citizen was an eligible elector of Iowa immediately before leaving the United States. A citizen who was not old enough to register to vote before leaving the United States but who met all of the other requirements for voter registration at that time also has the right to register and vote as if the person were a resident of a precinct in Iowa. This right applies even though while living outside the United States the citizen does not have a residence or other address in the precinct, and the citizen has not determined whether to return to Iowa. To qualify to vote in Iowa a United States citizen living outside the United States shall:

a. Comply with all applicable requirements of sections 53.37 to 53.53 relating to absentee ballots for members of the armed forces and other citizens living outside the United States.

b. Not maintain a residence, shall not be registered to vote, and shall not vote in any other state, territory, or possession of the United States.

c. Possess a valid passport or identity card and registration issued under authority of the United States secretary of state, or, if the citizen does not possess a valid passport or card of identity or registration, an alternative form of identification consistent with the provisions of applicable federal and state requirements.

5. If a United States citizen living outside the United States meets the requirements for voting, except for residence, has never lived in the United States, and has a parent who meets the definition of a member of the armed forces of the United States under section 53.37, the citizen is eligible to register to vote and vote at the same voting residence claimed by the citizen's parent.

6. The deadlines for voter registration shall not apply to a person who has been discharged from military service within thirty days preceding the date of an election. The person shall present to the precinct election official a copy of the person's discharge papers. The person shall complete a voter registration form and give it to the official before being permitted to vote.

Sec. 6. NEW SECTION. 48A.5A DETERMINATION OF RESIDENCE.

Residence shall be determined in accordance with the following principles:

1. The residence of a person is in the precinct where the person's home or dwelling is located.

2. A residence for purposes of this chapter cannot be established in a commercial or industrial building that is not normally used for residential purposes unless the building is used as a primary nighttime residence.

3. A person does not lose residence if the person leaves the person's home to reside temporarily in another state or precinct.

4. If a person goes to another state or precinct and files an affidavit of residence in that state or precinct for election purposes, the person loses residence in the former state or precinct, unless the person moved to the other state after that state's deadline for registering to vote in a particular election.

5. A student who resides at or near the school the student attends, but who is also able to claim a residence at another location under the provisions of this section, may choose either location as the student's residence for voter registration and voting purposes.

6. If an active member of the United States armed forces, as defined by section 53.37, has previously resided at a location that meets the requirements of this section, that person may claim either that previous residence or the person's current residence as the person's residence for voter registration and voting purposes.

7. Notwithstanding subsections 1 through 6, the residence of a homeless person is in the precinct where the homeless person usually sleeps. Residence requirements shall be construed liberally to provide homeless persons with the opportunity to register to vote and to vote.

8. A person's declaration of residency for voter registration and voting purposes is presumed to be valid unless a preponderance of evidence indicates that another location should be considered the person's voting residence under the provisions of this chapter.

Sec. 7. NEW SECTION. 48A.6 DISQUALIFIED ELECTORS.

The following persons are disqualified from registering to vote and from voting:

1. A person who has been convicted of a felony as defined in section 701.7, or convicted of an offense classified as a felony under federal law. If the person's rights are later restored by the governor, or by the president of the United States, the person may register to vote.

2. A person who has been legally determined to be mentally incompetent. Certification by the clerk of the district court that any such person has been found no longer incompetent by a court shall qualify such person to again be an elector, subject to the other provisions of this chapter.

Sec. 8. NEW SECTION. 48A.7 REGISTRATION IN PERSON.

An eligible elector may register to vote by appearing personally and completing a voter registration form at the office of the commissioner in the county in which the person resides, at a motor vehicle driver's license station, or at any voter registration agency. A separate registration form shall be signed by each individual registrant.

Sec. 9. NEW SECTION. 48A.8 REGISTRATION BY MAIL.

An eligible elector may register to vote by completing a mail registration form. The form may be mailed or delivered by the registrant or the registrant's designee to the commissioner in the county where the person resides. A separate registration form shall be signed by each individual registrant.

Sec. 10. NEW SECTION. 48A.9 VOTER REGISTRATION DEADLINES.

1. Registration closes at five p.m. eleven days before each election except primary and general elections. For primary and general elections, registration closes at five p.m. ten days before the election. An eligible elector may register during the time registration is closed in the elector's precinct but the registration shall not become effective until registration opens again in the elector's precinct.

2. The commissioner's office shall be open from eight a.m. until at least five p.m. on the day registration closes before each regularly scheduled election.

3. A registration form submitted by mail shall be considered on time if it is postmarked no later than the fifteenth day before the election, even if it is received by the commissioner after the deadline, or if the registration form is received by the commissioner no later than five p.m. on the last day to register to vote for an election, even if it is postmarked after the fifteenth day before the election.

4. Registration forms submitted to voter registration agencies or to motor vehicle driver's license stations shall be considered on time if they are received no later than five p.m. on the

day registration closes for that election. Offices or agencies other than the county commissioner's office are not required to be open for voter registration purposes at times other than their usual office hours.

Sec. 11. NEW SECTION. 48A.10 REGISTRATION REQUIRED.

If a registered voter moves to a different county, the person shall submit a completed voter registration form to the commissioner in order to be qualified to vote in that county. An otherwise eligible elector whose right to vote has been restored pursuant to chapter 914 or who has been found not to be mentally incompetent may register to vote.

SUBCHAPTER III
FORMS AND PROCEDURES FOR VOTER REGISTRATION

Sec. 12. NEW SECTION. 48A.11 VOTER REGISTRATION FORM.

1. Each voter registration form shall provide space for the registrant to provide the following information:

a. The county where the registrant resides.

b. The registrant's name.

c. The address at which the registrant resides and claims as the registrant's residence for voting purposes.

d. The registrant's mailing address if it is different from the residence address.

e. Social security number of the registrant (optional to provide).

f. Date of birth.

g. Sex.

h. Residential telephone number (optional to provide).

i. Political party registration.

j. The name and address appearing on the registrant's previous voter registration.

k. A space for a rural resident to provide township and section number, and such additional information as may be necessary to describe the location of the rural resident's home.

l. A space for a registrant who is homeless or who has no established residence to provide such information as may be necessary to describe a place to which the person often returns.

m. A statement that lists each eligibility requirement, contains an attestation that the registrant meets all of the requirements, and requires the signature of the registrant under penalty of perjury.

n. A space for the registrant's signature and the date signed.

2. The voter registration form shall include, in print that is identical to the attestation portion of the form, the following:

a. Each voter eligibility requirement.

b. The penalty provided by law for submission of a false voter registration form, which shall be the penalty for perjury as provided by section 902.9, subsection 4.

3. Voter registration forms used by voter registration agencies under section 48A.19 shall include the following statements:

a. If a person declines to register to vote, the fact that the person has declined to register will remain confidential and will be used only for voter registration purposes.

b. If a person does register to vote, the office at which the registrant submits a voter registration form will remain confidential and the information will be used only for voter registration purposes.

4. Voter registration forms may be on paper or electronic media.

5. All forms for voter registration shall be prescribed by rule adopted by the state voter registration commission.

Sec. 13. NEW SECTION. 48A.12 FEDERAL MAIL VOTER REGISTRATION FORM.

The mail voter registration form prescribed by the federal election commission shall be accepted for voter registration in Iowa if all required information is provided, if it is signed by the registrant, and if the form is timely received.

The state commissioner of elections shall make the federal mail voter registration forms available for distribution to governmental and private entities, with particular emphasis on making them available to organized voter registration entities and programs.

Sec. 14. NEW SECTION. 48A.13 ELECTRONIC SIGNATURES ON VOTER REGISTRATION RECORDS.

Electronic signatures shall be accepted. However, before the use of electronic signatures is accepted on voter registration forms, the state voter registration commission shall prescribe by rule the technological requirements for guaranteeing the security and integrity of electronic signatures.

Sec. 15. NEW SECTION. 48A.14 CHALLENGES OF VOTER REGISTRATIONS.

1. The registration of a registered voter may be challenged by another registered voter of the same county subject to the conditions and limitations of this section. A challenge shall be a statement in writing to the commissioner alleging one or more of the following reasons the challenged registrant's registration should not have been accepted or should be canceled:

a. The challenged registrant is not a citizen of the United States.

b. The challenged registrant is less than seventeen and one-half years of age.

c. The challenged registrant is not a resident at the address where the registrant is registered.

d. The challenged registrant has falsified information on the registrant's registration form.

e. The challenged registrant has been convicted of a felony, and the registrant's voting rights have not been restored.

f. The challenged registrant has been adjudged mentally incompetent by a court of law and no subsequent proceeding has reversed that finding.

2. A challenge shall not contain allegations against more than one registered voter.

3. A challenge shall contain a statement signed by the challenger in substantially the following form: "I swear or affirm that information contained on this challenge is true. I understand that knowingly filing a challenge containing false information is a serious misdemeanor."

4. A challenge may be filed at any time. A challenge filed less than seventy days before a regularly scheduled election shall not be processed until after the pending election unless the challenge is filed within twenty days of the commissioner's receipt of the challenged registrant's registration form or notice of change to an existing registration.

5. A challenger may withdraw a challenge at any time before the hearing held pursuant to section 48A.16 by notifying the commissioner in writing of the withdrawal.

Sec. 16. NEW SECTION. 48A.15 COMMISSIONER'S ACTION UPON RECEIPT OF CHALLENGE OR WITHDRAWAL.

1. A challenge is valid if it meets the criteria in section 48A.14, subsections 1, 2, and 3.

2. Upon receipt of a challenge which is not valid, the commissioner shall notify the challenger of the reason the challenge is not valid, and shall take no further action regarding the challenge.

3. Upon receipt of a valid challenge, the commissioner shall, within five working days, notify the challenged registrant and the challenger of the date, time, and place of a hearing on the matter of the challenge, to be held not less than twenty nor more than thirty days from the commissioner's receipt of the challenge. The notice of a hearing shall include a copy of the challenge, and shall advise the challenged registrant that the registrant may personally appear at the hearing, or may submit to the commissioner before the hearing evidence, documentation, or statements refuting the challenge.

4. The notice prescribed by subsection 3 shall be sent by first class forwardable mail to the challenged registrant at the registrant's most recent mailing address according to the registration records.

5. If the challenge is withdrawn, the commissioner shall immediately notify the challenged registrant of the withdrawal, and shall cancel the scheduled hearing.

6. If the challenged registrant notifies the commissioner that the challenged registrant wishes to appear in person but is unable to do so on the date scheduled, the commissioner may reschedule the hearing.

Sec. 17. NEW SECTION. 48A.16 HEARING ON CHALLENGE.

1. At the time and place fixed for the hearing, the commissioner shall accept evidence on the challenge from the challenger and the challenged registrant, or from any person appearing on behalf of either, and review any documents or statements pertaining to the challenge received before the hearing. On the basis of the evidence submitted, the commissioner shall either reject the challenge or cancel the registration of the challenged registrant. Either the challenged registrant or the challenger may appeal the commissioner's decision to the district court in the commissioner's county, and the decision of the court shall be final.

2. If a challenged registrant does not personally appear at the hearing and the challenged registrant's registration is canceled, the commissioner shall immediately notify the challenged registrant of the cancellation by first class forwardable mail sent to the challenged registrant's most recent mailing address according to the registration records.

SUBCHAPTER IV
PLACES TO REGISTER

Sec. 18. NEW SECTION. 48A.17 REGISTRATION AT COMMISSIONER'S OFFICE.

A person who meets the qualifications to vote may appear in person at the office of the county commissioner of registration and apply to register to vote.

Sec. 19. NEW SECTION. 48A.18 VOTER REGISTRATION AT MOTOR VEHICLE DRIVER'S LICENSE STATIONS.

1. Each state motor vehicle driver's license application, including any renewal application or application for a nonoperator's identification card, submitted to the driver services division of the state department of transportation shall serve as an application for voter registration unless the applicant declines to register to vote. A completed voter registration form submitted to the driver services division of the state department of transportation shall be considered to update any previous voter registration by the registrant.

2. A change of address form submitted to the driver services division of the state department of transportation shall serve as a change of address for voter registration purposes unless the registrant states on the form that the change of address is not for voter registration purposes.

3. Information relating to the refusal of an applicant for a driver's license to apply to register to vote shall not be used for any purpose other than voter registration.

4. Forms and procedures used by the driver services division for voter registration and a schedule for transmission of voter registration forms from the division to the county commissioner of registration shall be prescribed by the state voter registration commission by rule.

Sec. 20. NEW SECTION. 48A.19 VOTER REGISTRATION AGENCIES.

1. The following state agencies are responsible for voter registration:

a. All state offices that have direct client contact and provide applications for public assistance, including but not limited to offices administering the following programs:

(1) Food stamps.

(2) Medical assistance under chapter 249A.

(3) Iowa family investment program.

(4) Special supplemental food program for women, infants, and children.

b. All offices that provide state-funded programs primarily engaged in providing services to persons with disabilities, including but not limited to all of the following:

(1) Department for the blind.

(2) Division of vocational rehabilitation services of the department of education.

(3) Deaf services division of the department of human rights or its successor agency.

(4) Division of persons with disabilities of the department of human rights or its successor agency.

An agency designated a voter registration agency under this paragraph which provides services to persons with disabilities in their homes shall provide voter registration services at the clients' homes.

c. Other federal and state agencies designated to provide voter registration services include, but are not limited to, the United States armed forces recruiting offices.

2. Agencies designated to provide voter registration services shall provide the following services:

a. Distribution of a voter registration form either on paper or electronic medium.

b. Assistance to registrants in completing voter registration forms, unless the registrant refuses assistance.

c. Acceptance of completed voter registration forms for transmittal as required in section 48A.21.

3. The voter registration agency shall provide voter registration services with each application for services or assistance and with each recertification, renewal, or change of address form completed relating to the agency's services. The secretary of state shall adopt administrative rules in cooperation with voter registration agencies to carry out the requirements of this section.

4. The voter registration agency shall provide a form to applicants that includes all of the following:

a. The question, "If you are not registered to vote where you live now, would you like to apply to register to vote here today?"

b. If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency."

c. Boxes for the applicant to check and choices in substantially the following form:

"_____. I want to register to vote.

_____. I do not want to register to vote."

The following statement shall be printed near the choices and shall be printed in large, readable type:

"If you do not check either box, you will be considered to have decided not to register to vote at this time."

d. The statement, "If you would like help in filling out the voter registration form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private."

However, in those voter registration agencies where electronic forms are used, the following statement shall be used: "If you want to fill out the form in private, a separate paper form for voter registration will be provided."

e. The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the state voter registration commission". The name, address, and telephone number of the voter registration commission shall complete the statement.

The voter registration agency may distribute the voter registration form either on paper or by electronic medium.

5. The voter registration agency shall provide each applicant who chooses to register to vote the same degree of assistance in completing the registration form as is provided by the office for the completion of its own forms unless the applicant refuses such assistance.

6. Completed voter registration forms shall be transmitted as provided in section 48A.21.

Sec. 21. NEW SECTION. 48A.20 PROHIBITED ACTS BY VOTER REGISTRATION AGENCY EMPLOYEES.

A person who provides voter registration services as required by this subchapter shall not:

1. Seek to influence an applicant's political preference or party registration.

2. Display a political preference or party affiliation.

3. Make any statement to an applicant or take any action which has the purpose or effect of discouraging the applicant from registering to vote.

4. Make any statement to an applicant or take any action which has the purpose or effect of leading the applicant to believe that a decision to register or not to register to vote has any bearing on the availability of services or benefits.

Sec. 22. NEW SECTION. 48A.21 TRANSMISSION OF FORMS FROM AGENCIES AND DRIVER'S LICENSE STATIONS.

The state registrar of voters shall adopt administrative rules regulating the transmission of completed voter registration forms from voter registration agencies and from driver's license stations. All completed voter registration applications in the possession of a voter registration agency or a driver's license station at five p.m. on the last work day of each week shall be transmitted to the location designated by the state registrar of voters by rule. Procedures or requirements for more frequent transmissions may be specified by rule.

Sec. 23. NEW SECTION. 48A.22 VOTER REGISTRATION BY VOLUNTEER ORGANIZATIONS.

The secretary of state shall encourage volunteer organizations to undertake voter registration drives by providing mail registration forms at the cost of production.

Sec. 24. NEW SECTION. 48A.23 REGISTRATION AT EDUCATIONAL INSTITUTIONS.

1. At least twice during each school year, the board of directors of each school district operating a high school and the authorities in charge of each accredited nonpublic school shall offer the opportunity to register to vote to each student who is at least seventeen and one-half years of age.

2. All postsecondary schools, including but not limited to, colleges, universities, and trade and technical schools which receive state funding shall offer the opportunity to register to vote to each student at least once each year. Students shall be provided with the federal voter registration form or the Iowa voter registration form, as applicable.

Sec. 25. NEW SECTION. 48A.24 VOTER REGISTRATION FORMS IN INCOME TAX RETURNS AND BOOKLETS.

For odd-numbered tax years, the director of revenue and finance shall insert securely in each individual income tax return form or instruction booklet two voter registration forms, designed according to rules adopted by the state voter registration commission.

Sec. 26. NEW SECTION. 48A.25 COMPENSATION FOR ASSISTANCE IN COMPLETING REGISTRATION FORMS.

A person may pay, offer to pay, or accept compensation for assisting others in completing voter registration forms only if the compensation is based solely on the time spent providing the assistance. Paying, offering to pay, or receiving compensation based on the number of registration forms completed, or the party affiliations shown on completed registration forms, or on any other performance criteria, is a serious misdemeanor.

This section shall not apply to state statutory political committees, as defined in section 43.111.

This section shall not apply to state and political subdivision employees who are required to offer assistance to clients as a part of their regular job duties, and who shall not be granted additional compensation for voter registration activities. A person assisting another in completing a voter registration form shall not complete any portion of the form without the knowledge or consent of the registrant.

SUBCHAPTER V
PROCESSING VOTER REGISTRATION RECORDS

Sec. 27. NEW SECTION. 48A.26 ACKNOWLEDGMENT OF REGISTRATION FORM.

1. Within seven working days of receipt of a voter registration form or change of information in a voter registration record the commissioner shall send an acknowledgment to the registrant at the mailing address shown on the registration form. The acknowledgment shall be sent by first class nonforwardable mail.

2. If the registration form appears on its face to be complete and proper, the acknowledgment shall state that the registrant is now a registered voter of the county. The acknowledgment shall also specify the name of the precinct and the usual polling place for the precinct in which the person is now registered. The acknowledgment may include the political party affiliation most recently recorded by the registrant.

3. If the registration form is missing required information, the acknowledgment shall advise the applicant what additional information is required. The commissioner shall enclose a new registration by mail form for the applicant to use. If the registration form has no address, the commissioner shall make a reasonable effort to determine where the acknowledgment should be sent.

4. If the acknowledgment is returned as undeliverable by the United States postal service, the commissioner shall follow the procedure described in section 48A.29, subsection 1.

5. If a registrant has not supplied enough information on a registration form for the commissioner to determine the correct precinct and other districts, the commissioner shall obtain the information as quickly as possible either from the registrant or other sources available to the commissioner.

6. An improperly addressed or delivered registration form shall be forwarded to the appropriate county commissioner of registration within two working days after it is received by any other official. The date of registration shall be the date the registration form was received by the first official. If the registration form was postmarked fifteen or more days before an election and the registration form was received by the first official after the close of registration, the registration form shall be considered on time for the election.

7. When a person who is at least seventeen and one-half years of age but less than eighteen years of age registers to vote, the commissioner shall maintain a record of the registration so as to clearly indicate that it will not take effect until the registrant's eighteenth birthday and that the person is registered and qualifies to vote at any election held on or after that date.

Sec. 28. NEW SECTION. 48A.27 CHANGES TO VOTER REGISTRATION RECORDS.

1. Any voter registration form received by any voter registration agency, driver's license station, or the commissioner shall be considered as updating the registrant's previous registration.

2. a. A person who is registered to vote may request changes in the voter's registration record at any time by submitting one of the following, as applicable:

(1) A written notice to the county commissioner.

(2) A completed Iowa or federal mail registration form to the county commissioner.

(3) On election day, a registration form to the precinct election officials at the precinct of the voter's current residence.

(4) A change of address form to the driver services division of the state department of transportation.

(5) A change of address notice for voter registration submitted to any voter registration agency.

b. If a change of name, telephone number, or address is submitted under this subsection, the commissioner shall not change the party affiliation in the elector's prior registration other than that indicated by the elector.

3. The commissioner shall make the necessary changes in the registration records without any action by the registrant when any of the following events occur:

a. Annexation of territory by a city. When an existing city annexes territory, the city clerk shall furnish the commissioner a detailed map of the annexed territory. The commissioner shall change the registration of persons residing in that territory to reflect the annexation and the city precinct to which each of those persons is assigned. If the commissioner cannot determine the names and addresses of the persons affected by the annexation, the commissioner shall send each person who may be involved a letter informing the person that the person's registration may be in error, and requesting that each person provide the commissioner with the information necessary to correct the registration records.

b. Change of official street name or house or building number by a city or county. When the city or county changes the name of a street or the number of a house or other building in which a person resides, the city clerk or county board of supervisors shall inform the commissioner of the change, and the commissioner shall change the registration of each person affected.

c. Incorporation or discontinuance of a city. When a new city is incorporated or an existing city is discontinued, the city clerk shall notify the commissioner. The commissioner shall change the registration of each person affected.

d. Change of rural route designation of the residence of the registered voter. The commissioner shall request each postmaster in the county to inform the commissioner of each change in rural route designation and the names of the persons affected, and the commissioner shall change the registration of each person as appropriate.

4. a. A commissioner, either independently or in cooperation with the state registrar of voters, and in accordance with rules of the state voter registration commission, may enter into an agreement with a licensed vendor of the United States postal service participating in the national change of address program to identify registered voters of the county who may have moved either within or outside the county.

b. If the information provided by the vendor indicates that a registered voter has moved to another address within the county, the commissioner shall change the registration records to show the new residence address, and shall also mail a notice of that action to both the former and new addresses. The notice shall be sent by forwardable first class mail, and shall include a postage prepaid preaddressed return form by which the registered voter may verify or correct the address information.

c. If the information provided by the vendor indicates that a registered voter has moved to an address outside the county, the commissioner shall make the registration record inactive, and shall mail a notice to the registered voter at both the former and new addresses. The notice shall be sent by forwardable first class mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of, and therefore not eligible to vote in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct and you have moved, please contact a local official in your new area for assistance in registering there.

If you do not mail in the card, you may be required to show identification proving your residence in (name of county) County before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in an election in (name of county) County, Iowa on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county. To ensure you receive this notice, it is being sent to both your most recent registration address and to your new address as reported by the postal service."

d. If the information provided by the vendor indicates the registered voter has moved to another county within the state, the notice required by paragraph "c" shall include a statement that registration in the county of the person's current residence is required, and shall provide a mail registration form for the person to use.

e. If a registered voter returns a card sent pursuant to this subsection and confirms that the registered voter has moved to a new residence outside the county, the commissioner shall cancel the registration of the voter.

f. If a registered voter returns a card sent pursuant to this subsection and states that the registered voter's residence address has not changed for the purpose of voter registration, the commissioner shall reinstate the record to active status, making any other changes directed by the registrant in the notice.

5. The commissioner shall keep a record of the names and addresses of the registered voters to whom notices under this section are sent and the date of the notice. When the return card from a notice is received by the commissioner, the commissioner shall record the date it was received and whether the registrant had moved within the county, moved to an address outside the county, or had not changed residence.

Sec. 29. NEW SECTION. 48A.28 SYSTEMATIC CONFIRMATION PROGRAM.

1. Each commissioner shall conduct a systematic program that makes a reasonable effort to remove from the official list of registered voters the names of registered voters who have changed residence from their registration addresses. Either or both of the methods described in this section may be used.

2. A commissioner may participate in the United States postal service national change of address program, as provided in section 48A.27. The state voter registration commission shall adopt rules establishing specific requirements for participation and use of the national change of address program.

A commissioner participating in the national change of address program, in the first quarter of each calendar year, shall send a notice and preaddressed, postage paid return card by first class forwardable mail to each registered voter whose name was not reported by the national change of address program and who has not voted, registered again, or reported a change to an existing registration during the preceding four calendar years. The form and language of the notice and return card shall be specified by the state voter registration commission by rule. A registered voter shall not be sent a notice and return card under this subsection more frequently than once in a four-year period.

3. For a commissioner who is not participating in the national change of address program, in February of each year the commissioner shall mail a confirmation notice to each registered voter in the county. The notice shall be sent by first class forwardable mail. The notice shall include a preaddressed, postage paid return card for the use of the registered voter or the recipient of the notice. The card shall contain boxes for the recipient to check to indicate one of the following:

a. That the recipient is the registered voter named on the card, and is still a resident at the address listed.

b. That the recipient is the registered voter named on the card, but is no longer a resident of the address listed.

c. That the recipient is not the registered voter named on the card, and the registered voter named on the card is not a resident of the address listed.

The form and language of the notice and return card shall be specified by the state voter registration commission by rule.

Sec. 30. NEW SECTION. 48A.29 PROCEDURE UPON RETURN OF CONFIRMATION CARD.

1. If a confirmation notice and return card sent pursuant to section 48A.28 is returned as undeliverable by the United States postal service, the commissioner shall make the registration record inactive and shall mail a notice to the registered voter at the registered voter's most recent mailing address, as shown by the registration records.

The notice shall be sent by forwardable first class mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification proving your residence

in (name of county) County before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county."

2. When a detachable return card originally attached to a confirmation notice is returned indicating that the registered voter is still a resident of the address shown on the registration records, the commissioner shall make a record of the date the card was received.

3. When a detachable return card originally attached to a confirmation notice is returned by anyone other than the registered voter indicating that the registered voter is no longer a resident of the registration address, the commissioner shall make the registration record inactive, and shall mail a notice to the registered voter at the registered voter's most recent mailing address, as shown by the registration records.

The notice shall be sent by forwardable first class mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received by this office indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If the information is not correct, and you still live at that address, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved within the county, you may update your registration by listing your new address on the card and mailing it back. If you have moved outside the county, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification proving your residence in (name of county) County before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa on or before (date of second general election following the date of the notice) your name will be removed from the list of registered voters in that county."

Sec. 31. NEW SECTION. 48A.30 CANCELLATION OF VOTER REGISTRATION.

1. The voter registration of a registered voter shall be canceled if any of the following occurs:

a. The registered voter dies. For the purposes of this subsection, the commissioner may accept as evidence of death a notice from the state registrar of vital statistics forwarded by the state registrar of voters, a written statement from a member of the registered voter's household, an obituary in a newspaper, a written statement from an election official, or a notice from the clerk of the district court in the county where the registered voter died.

b. The registered voter registers to vote in another jurisdiction, and the commissioner receives notice of the registration from the registration official in the other jurisdiction.

c. The registered voter requests the cancellation in writing.

For the purposes of this subsection, a confirmation by the registered voter that the registered voter is no longer a resident of the county constitutes a request for cancellation.

d. The clerk of the district court, or the United States attorney, or the state registrar sends notice of the registered voter's conviction of a felony as defined in section 701.7, or conviction of an offense classified as a felony under federal law. 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, and shall notify the county commissioner of registration for that county of the felony conviction.

e. The clerk of the district court or the state registrar sends notice that the registered voter has been declared mentally incompetent under state law.

f. The registered voter's registration record has been inactive pursuant to section 48A.29 for two successive general elections.

2. When a registration is canceled pursuant to subsection 1, paragraph "d", "e", or "f", the commissioner shall send a notice of the cancellation to the registered voter.

Sec. 32. NEW SECTION. 48A.31 DECEASED PERSONS RECORD.

The state registrar of vital statistics shall transmit or cause to be transmitted to the state registrar of voters, once each calendar quarter, a certified list of all persons seventeen and one-half years of age and older in the state whose deaths have been reported to the records and statistics division of the Iowa department of public health since the previous list of decedents was certified to the state registrar of voters. The list shall be submitted according to the specifications of the state registrar of voters, who shall determine whether each listed decedent was registered to vote in this state. If the decedent was registered in a county which uses its own data processing facilities for voter registration recordkeeping, the registrar shall notify the commissioner in that county who shall cancel the decedent's registration. If the decedent was registered in a county for which voter registration recordkeeping is performed under contract by the registrar, the registrar shall immediately cancel the registration and notify the commissioner of the county in which the decedent was registered to vote of the cancellation.

Sec. 33. NEW SECTION. 48A.32 DESTRUCTION OR REMOVAL OF CANCELED VOTER REGISTRATION RECORDS.

Twenty-two months after the next general election following the cancellation of a person's voter registration, the commissioner may destroy all records of that person's registration. At the discretion of the commissioner, canceled records may be donated to an historical society if all confidential information has been removed from the records.

Sec. 34. NEW SECTION. 48A.33 DECLINATION OF REGISTRATION OPPORTUNITY.

When a client or applicant of a voter registration agency declines to register to vote, the record of the declination shall be kept by the voter registration agency for twenty-two months after the next general election after which time the agency may destroy the records.

SUBCHAPTER VI
RETENTION AND STORAGE OF VOTER REGISTRATION RECORDS

Sec. 35. NEW SECTION. 48A.34 CONFIDENTIALITY OF CERTAIN RECORDS.

Voter registration records are available for public inspection at reasonable times at the office of the county commissioner. The commissioner and any voter registration agency which has custody of voter registration records shall take the necessary steps to ensure that the name of the agency at which the voter registration form was submitted remains confidential.

Sec. 36. NEW SECTION. 48A.35 VOTER REGISTRATION RECORDS UNDER CONTROL OF THE COMMISSIONER.

The county commissioner of elections shall be responsible for the maintenance and storage of all paper and electronic voter registration records in the commissioner's custody. Original registration records shall not be removed from the commissioner's office or from any other designated permanent storage location except upon request of a county commissioner or a court order, or as provided by section 48A.32. The state registrar of voters and the state voter registration commission shall adopt administrative rules to implement this section.

Sec. 37. NEW SECTION. 48A.36 ELECTRONIC REGISTRATION RECORD RETENTION IN VOTER REGISTRATION AGENCIES.

1. Voter registration agencies and the driver services division of the state department of transportation may electronically transmit registration data to the state registrar of voters, who shall distribute the information, electronically or otherwise, to the appropriate commissioner in accordance with rules of the state voter registration commission and the state registrar of voters. The state agency originating the registration data shall permanently retain an electronic copy of the form completed by the registrant, including the registrant's signature, and shall develop procedures for the retrieval and printing of that electronic document. A printed copy of an electronic registration document shall be made only upon the agency's receipt of a court order.

2. Upon receipt of electronic registration data under subsection 1, the state registrar of voters may cause the updating of registration records for registrants in counties which have arranged for data processing services under section 47.7, subsection 2. The registrar shall notify the commissioner of the actions taken.

Sec. 38. NEW SECTION. 48A.37 ELECTRONIC REGISTRATION RECORDS.

1. Voter registration records shall be maintained in an electronic medium. A history of local election participation shall be maintained as part of the electronic record for at least two general, primary, school, and city elections. Absentee voting shall be recorded for the previous two general and primary elections. After each election, the county commissioner shall update telephone numbers provided by registered voters pursuant to section 49.77.

2. Electronic records shall include a status code designating whether the records are active or inactive. Inactive records are records of registered voters to whom notices have been sent pursuant to section 48A.28, subsection 3, and who have not returned the card or otherwise responded to the notice, and those records have been designated inactive pursuant to section 48A.29. All other records are active records. An inactive record shall be made active when the registered voter votes at an election, registers again, or reports a change of name, address, telephone number, or political party affiliation.

Sec. 39. NEW SECTION. 48A.38 LISTS OF VOTERS.

1. Any person may request of the registrar and shall receive, upon payment of the cost of preparation, a list of registered voters and other data on registration and participation in elections, in accordance with the following requirements and limitations:

a. The registrar shall prepare each list requested within fourteen days of receipt of the request, except that the registrar shall not be required to prepare any list within seven days of the close of registration for any regularly scheduled election if the preparation of the list would impede the preparation of election registers for that election.

b. Each list shall be as current as possible, but shall in all cases reflect voter activity reported to any commissioner twenty-eight or more days before preparation of the list.

c. Each list shall be in the order and form specified by the list purchaser, and shall contain the registration data specified by the list purchaser, provided compliance with the request is within the capability of the record maintenance system used by the registrar.

d. Lists prepared shall not include inactive records unless specifically requested by the requester.

e. The registrar shall prepare updates to lists at least biweekly, and after the close of registration for a regularly scheduled election, but before the election, if requested to do so at the time a list is purchased. All updates shall be made available to all requesters at the same time, and shall be in the order and form specified by each requester.

2. The registrar shall maintain a log of the name, address, and telephone number of every person who receives a list under this section, and of every person who reviews registration records in the office of the registrar. Commissioners of registration shall maintain a similar log in their offices of those who receive a list from the commissioner or who review registration records in the commissioner's office. Logs maintained under this subsection are public records, and shall be available for public inspection at reasonable times.

Sec. 40. NEW SECTION. 48A.39 USE OF REGISTRATION INFORMATION.

Information about individual registrants obtained from voter registration records shall be used only to request the registrant's vote at an election, or for another genuine political purpose, or for a bona fide official purpose by an elected official, or for bona fide political research, but shall not be used for any commercial purposes. A person who uses registration information in violation of this section commits a serious misdemeanor.

Sec. 41. NEW SECTION. 48A.40 REPORTS.

At least once each month and at other times deemed appropriate, the county commissioner of registration shall report to the state registrar the number of persons registered in each

county. The report shall include the registration totals for each political party and the number of persons not registered with a political party.

Sec. 42. NEW SECTION. 48A.41 CRIMINAL PENALTIES.

1. A person who commits any of the following acts shall be guilty of a class "D" felony:

a. Willfully registers to vote, knowing oneself not to be eligible.

b. Willfully or knowingly provides false information for the purpose of registering to vote.

c. Willfully or knowingly registers a fictitious person to vote, or attempts to do so.

d. Forges another person's name to a voter registration form or other voter registration document.

2. A person who commits any of the following acts shall be guilty of an aggravated misdemeanor:

a. Willfully or knowingly entices another to fraudulently register to vote.

b. Conspires with another for the purpose of introducing information known to be false into voter registration records.

c. Willfully or knowingly destroys registration records, or attempts to do so, without proper authorization. For the purpose of this paragraph, an electronic record which has not been replaced with a more recent version of the same record, is a registration record.

d. Files a challenge under section 48A.14 which the challenger knows contains false information pertaining to the reasons the registration is being challenged.

e. Willfully or knowingly intimidates or threatens, or attempts to intimidate or threaten, any person for registering to vote or attempting to register to vote, or intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce any person to register to vote or to attempt to register to vote.

Sec. 43. Section 39.3, subsection 10, Code Supplement 1993, is amended to read as follows:

10. ~~"Qualified elector"~~ "Registered voter" means a person who is registered to vote pursuant to chapter ~~48~~ 48A.

Sec. 44. Section 43.5, Code 1993, is amended to read as follows:

43.5 APPLICABLE STATUTES.

The provisions of chapters 39, 47, ~~48~~ 48A, 49, 50, 51, 52, 53, 56, 57, 58, 59, 61, 62 and 722 shall apply, so far as applicable, to all primary elections, except as hereinafter provided.

Sec. 45. Section 47.1, Code Supplement 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

The secretary of state is designated the chief state election official and is responsible for coordination of state responsibilities under the federal National Voter Registration Act of 1993.

Sec. 46. Section 47.2, subsection 1, Code 1993, is amended to read as follows:

1. The county auditor of each county is designated as the county commissioner of elections in each county. The county commissioner of elections shall conduct voter registration pursuant to chapter ~~48~~ 48A and conduct all elections within the county.

Sec. 47. Section 47.7, subsection 4, Code 1993, is amended to read as follows:

4. Not later than July 1, 1984, information listed in section ~~48.6~~ 48A.11 contained in a county's manual records but not on the county's computer readable records shall be provided to the registrar in a form specified by the registrar. The registrar shall require that any information supplied under section ~~48.6~~ 48A.11, except ~~subsections 9 and 11~~ the signature and attestation of the registrant, be provided to the registrar in a form specified by the registrar.

Sec. 48. Section 47.8, subsection 4, Code Supplement 1993, is amended to read as follows:

4. The registration commission shall annually adopt a set of standard charges to be made for the services the registrar is required to offer to the several commissioners, and for furnishing of voter registration records which are requested by persons other than the registrar, the state commissioner or any commissioner pursuant to section ~~48.5, subsection 2~~ 48A.38. These

charges shall be sufficient to reimburse the state for the actual cost of furnishing such services or information, and shall be specified by unit wherever possible. The standard charges shall be adopted by the commission by January 15 of each calendar year.

Sec. 49. Section 49.28, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

49.28 COMMISSIONER TO FURNISH REGISTERS AND SUPPLIES.

The commissioner shall prepare and furnish to each precinct an election register and all other books, forms, materials, equipment, and supplies necessary to conduct the election.

After the registration deadline and before election day the commissioner shall prepare an election register for each precinct in which voting will occur on the day of the election. The precinct election register shall be a list of the names and addresses of all registered voters of the precinct. Inactive records listed in the election register shall be clearly identified with a special mark or symbol.

When a precinct is divided by a district boundary, and some, but not all, registered voters of the precinct may vote on an issue or office from that district, the election register shall clearly indicate which of the registered voters are entitled to vote in the district.

Sec. 50. Section 49.77, Code 1993, is amended to read as follows:

49.77 BALLOT FURNISHED TO VOTER.

1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the ..... precinct, ... ward or township, city of ....., county of ....., Iowa.

I am a ~~qualified elector~~ registered voter. I have not voted and will not vote in any other precinct in said election.

(For primary election only:) I am affiliated with the ..... party.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

.....
SIGNATURE OF VOTER

.....
ADDRESS

.....
TELEPHONE

Approved:

.....
BOARD MEMBER

2. One of the precinct election officials shall announce the ~~elector's~~ voter's name aloud for the benefit of any persons present pursuant to section 49.104, subsection 2, 3 or 5. Any of those persons may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials.

3. A precinct election official shall require any person whose name does not appear on the election register as an active voter to show identification. Specific documents which are acceptable forms of identification shall be prescribed by the state commissioner.

PARAGRAPH DIVIDED. A precinct election official may require of ~~an elector~~ the voter unknown to the official, identification upon which the ~~elector's~~ voter's signature or mark appears. If identification is established to the satisfaction of the precinct election officials, the person may then be allowed to vote.

4. ~~A person whose name does not appear on the election register of the precinct in which that person claims the right to vote shall not be permitted to vote, except in the circumstance described in section 48.7, subsection 1, paragraph "b", unless the commissioner informs the precinct election officials that an error has occurred and that the person is a qualified elector of that precinct. If the commissioner finds no record of the person's registration but the person insists that the person is a qualified elector of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.~~ A person whose name does not appear on the election register of the precinct in which that person claims the right to vote shall not be permitted to vote, unless the person affirms that the person is currently registered in the county and presents proof of identity, or the commissioner informs the precinct election officials that an error has occurred and that the person is a registered voter of that precinct. If the commissioner finds no record of the person's registration but the person insists that the person is a registered voter of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.

5. The request for the telephone number in the declaration of eligibility in subsection 1 is not mandatory and the failure by the ~~elector~~ voter to provide the telephone number does not affect the declaration's validity.

Sec. 51. Section 49.81, subsection 4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The individual envelopes used for each paper ballot cast pursuant to subsection 1 shall have printed on them the format of the face of the registration form under section ~~48.3~~ 48A.8 and the following:

Sec. 52. Section 50.19, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The commissioner may destroy precinct election registers, the declarations of eligibility signed by voters, and other material pertaining to any election in which federal offices are not on the ballot, except the tally lists, six months after the election if a contest is not pending. If a contest is pending all election materials shall be preserved until final determination of the contest. Before destroying the election registers and declarations of eligibility, the commissioner shall prepare records as necessary to permit compliance with ~~section 48.31, subsection 1~~ chapter 48A, subchapter V. Nomination papers for primary election candidates for state and county offices shall be destroyed ten days before the general election, if a contest is not pending.

Sec. 53. Section 50.22, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The decision to count or reject each ballot shall be made upon the basis of the information given on the envelope containing the special ballot, the evidence concerning the challenge, the registration and the returned receipts of registration. ~~If the challenged voter's registration was canceled in the same county where the person attempted to vote because first class mail other than the registration receipt mailed pursuant to section 48.3 was returned by the postal service during the four years preceding the election in progress, the person's ballot shall be accepted for counting and the elector's registration shall be reinstated.~~

Sec. 54. Section 53.2, Code 1993, is amended to read as follows:

53.2 APPLICATION FOR BALLOT.

Any ~~qualified elector~~ registered voter, under the circumstances specified in section 53.1, may on any day, except election day, and not more than seventy days prior to the date of the election, apply in person for an absentee ballot at the commissioner's office or at any location designated by the commissioner, or make written application to the commissioner for an absentee ballot. The state commissioner shall prescribe a form for absentee ballot applications. However, if ~~an elector~~ a registered voter submits an application that includes all of the information required in this section, the prescribed form is not required.

This section does not require that a written communication mailed to the commissioner's office to request an absentee ballot, or any other document be notarized as a prerequisite to receiving or marking an absentee ballot or returning to the commissioner an absentee ballot which has been voted.

Each application shall contain the name and signature of the ~~qualified elector~~ registered voter, the address at which the ~~elector~~ voter is ~~qualified~~ registered to vote, and the name or date of the election for which the absentee ballot is requested, and such other information as may be necessary to determine the correct absentee ballot for the qualified elector. If insufficient information has been provided, the commissioner shall, by the best means available, obtain the additional necessary information.

If the application is for a primary election ballot and the request is for a ballot of a party different from that recorded on the ~~qualified elector's~~ registered voter's voter registration record, the requested ballot shall be mailed or given to the applicant together with a "Change or Declaration of Party Affiliation" form as prescribed in section 43.42, to be completed by the ~~qualified elector~~ registered voter at the time of voting. Upon receipt of the properly completed form, the commissioner shall approve the change or declaration and enter a notation of the change on the registration records.

If an application for an absentee ballot is received from an eligible elector who is not a ~~qualified elector~~ registered voter the commissioner shall send a registration form under section ~~48.3~~ 48A.8 and an absentee ballot to the eligible elector. If the application is received so late that it is unlikely that the registration form can be returned in time to be effective on election day, the commissioner shall enclose with the absentee ballot a notice to that effect, informing the voter of the registration time limits in ~~sections 48.3 and 48.11~~ section 48A.9. The commissioner shall record on the elector's application that the elector is not currently registered to vote. If the registration form is properly returned by the time provided by section ~~48.3~~ 48A.8, the commissioner shall record on the elector's application the date of receipt of the registration form and enter a notation of the registration on the registration records.

A ~~qualified elector~~ registered voter who has not moved from the county in which the elector is registered to vote may submit a change of name, telephone number, or address on the form prescribed in section ~~48.3~~ 48A.8 when casting an absentee ballot. Upon receipt of a properly completed form, the commissioner shall enter a notation of the change on the registration records.

Sec. 55. Section 53.38, Code 1993, is amended to read as follows:

53.38 AFFIDAVIT CONSTITUTES REGISTRATION.

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ballot envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under the provisions of chapter ~~48~~ 48A and the commissioner shall place the voter's name on the registration record as a ~~qualified elector~~ registered voter, if it does not already appear there.

Sec. 56. Section 53.53, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The voter's declaration or affirmation on the federal write-in ballot constitutes a sufficient registration under the provisions of chapter ~~48~~ 48A and the commissioner shall place the voter's name on the registration record as a ~~qualified elector~~ registered voter, if the voter's name does not already appear on the registration record. No witness to the oath is necessary.

Sec. 57. Section 280.9A, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. At least twice during each school year, the board of directors of each local public school district operating a high school and the authorities in charge of each accredited nonpublic school operating a high school shall offer the opportunity to register to vote to each student who is at least seventeen and one-half years of age, as required by section 48A.22.

Sec. 58. Section 283A.1, subsection 3, Code 1993, is amended to read as follows:

3. "School board" means a board of school directors regularly elected by the ~~qualified~~ registered voters of a school corporation or district of the state of Iowa.

Sec. 59. Section 331.424, subsection 1, paragraph i, Code 1993, is amended to read as follows:

i. Elections, and voter registration pursuant to chapter ~~48~~ 48A.

Sec. 60. Section 331.505, subsection 4, Code 1993, is amended to read as follows:

4. Serve as county commissioner of registration as provided in chapter ~~48~~ 48A.

Sec. 61. Section 368.1, subsection 12, Code Supplement 1993, is amended to read as follows:

12. "~~Qualified elector~~ Registered voter" means a person who is registered to vote pursuant to chapter ~~48~~ 48A.

Sec. 62. Section 602.8102, subsection 15, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

15. Notify the county commissioner of registration and the state registrar of voters of persons seventeen and one-half years of age and older who have been convicted of a felony or who have been legally declared to be mentally incompetent.

Sec. 63. Section 914.6, subsections 1 and 3, Code 1993, are amended to read as follows:

1. Pardons, commutations of sentences, and remissions of fines and forfeitures, ~~and restorations of rights of citizenship~~ shall be issued in duplicate. ~~Reprieves~~ Restorations of rights of citizenship and reprieves shall be issued in triplicate.

3. In the case of a remission of fines and forfeitures, restoration of rights of citizenship, or a pardon, commutation of sentence, or reprieve, if the person is not in custody, one copy of the executive instrument shall be delivered to the person and one copy to the clerk of court where the judgment is of record. A list of the restorations of rights of citizenship issued by the governor shall be delivered to the state registrar of voters at least once each month.

Sec. 64. Sections 43.41, 43.42, 43.43, 43.120, 49.11, 49.27, 49.30, 49.43, 49.74, 49.80, 49.81, 49.105, 50.7, 50.8, 53.7, 53.8, 53.15, 53.17, 53.19, 53.25, 53.39, 176A.5, 176A.8, 275.13, 303.25, 303.49, 331.201, 331.751, 357.12, 357C.7, 357D.8, 357E.8, 357F.8, 358.7, and 368.14, Code 1993, are amended by striking from the sections the words "qualified elector" and "qualified electors" and inserting in lieu thereof the words "registered voter" and "registered voters" and by striking from the sections the words "elector" and "electors" when it is used to mean "qualified elector" or "qualified electors" and inserting in lieu thereof the words "registered voter" or "voter" and "registered voters" or "voters", as appropriate.

Sec. 65. Sections 39.3, 53.1, 53.11, 53.22, 275.1, and 362.2, Code Supplement 1993, are amended by striking from the sections the words "qualified elector" and "qualified electors" and inserting in lieu thereof the words "registered voter" and "registered voters" and by striking from the sections the words "elector" and "electors" when it is used to mean "qualified elector" or "qualified electors" and inserting in lieu thereof the words "registered voter" or "voter" and "registered voters" or "voters", as appropriate.

Sec. 66. Sections 47.4, 48.1, 48.2, 48.3, 48.4, 48.5, 48.6, 48.7, 48.8, 48.9, 48.10, 48.11, 48.12, 48.15, 48.17, 48.20, 48.21, 48.22, 48.23, 48.29, 48.30, and 48.32, Code 1993, are repealed.

Sec. 67. Sections 48.16 and 48.31, Code Supplement 1993, are repealed.

Sec. 68. EFFECTIVE DATE. This Act takes effect January 1, 1995.

Approved May 11, 1994

CHAPTER 1170

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

S.F. 2311

AN ACT relating to services for persons with mental illness, mental retardation or other developmental disability, or brain injury.

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

DIVISION I

Legal Settlement — Alternative Dispute Resolution

Section 1. Section 222.70, Code 1993, is amended to read as follows:

222.70 ~~DISPUTE BETWEEN COUNTIES~~ LEGAL SETTLEMENT DISPUTES.

1. ~~When~~ If a dispute arises between counties or between the administrator and a county as to the legal settlement of a person admitted or committed to a hospital-school, ~~or~~ a special unit, or a community-based service, the attorney general at the request of the administrator shall without advancement of fees cause an action to be brought in the district court of any county where ~~such~~ the dispute exists. The action shall be brought to determine ~~such~~ the person's legal settlement, except that ~~such~~ action shall ~~in no case~~ not be filed in a county in which the district court or a judge ~~thereof~~ of that district court originally made the disputed finding. ~~Said~~ The action may be brought at any time when it appears that the dispute cannot be amicably settled. All counties which may be the county of ~~such~~ the person's legal settlement, so far as known, shall be made defendants and the allegation of settlement may be in the alternative. ~~Said~~ The action shall be tried as in equity.

2. In lieu of an action filed under subsection 1, the parties to a dispute concerning a person's legal settlement or a payment for a community-based service may settle the dispute through an alternative dispute resolution process agreed to by the parties. The alternative dispute resolution process may include but is not limited to mediation, binding arbitration, or other mutually agreeable form of resolution. A resolution of the dispute agreed to by the parties shall be stipulated to and filed in the office of the clerk of the district court.

Sec. 2. Section 222.71, Code 1993, is amended to read as follows:

222.71 LEGAL SETTLEMENT — FINDING BY COURT.

~~The~~ If an action is filed under section 222.70, subsection 1, the court shall determine whether the legal settlement of ~~said mentally retarded~~ the person ~~at the time of admission or commitment~~ with mental retardation was in one of the defendant counties at the time of admission or commitment. If the court ~~so~~ finds the person to have legal settlement in a county, judgment shall be entered against the county ~~of such settlement~~ in favor of any other county for all necessary and legal expenses arising from ~~said~~ the person's admission or commitment and shall be paid by ~~said other~~ the county of legal settlement. If any such costs have not been paid, judgment shall be rendered against the county of legal settlement in favor of the parties, including the state, to whom ~~said~~ the costs or expenses may be due.

Sec. 3. Section 222.72, Code 1993, is amended to read as follows:

222.72 FINDING LEGAL SETTLEMENT OUTSIDE STATE.

If an alternative dispute resolution of the dispute filed under section 222.70 stipulates or the court finds pursuant to section 222.70 or 222.71 that the legal settlement of ~~said mentally retarded~~ the person with mental retardation, at the time of admission or commitment was outside the state or was unknown an order shall be entered that the ~~mentally retarded~~ person shall be maintained in the hospital-school, ~~or~~ the special unit, or a community-based service at the expense of the state. In such case, the state shall refund to any county all necessary and legal expenses for the cost of said admission or commitment paid by a county. A decision by the court shall be final.

Sec. 4. Section 230.12, Code 1993, is amended to read as follows:

230.12 ~~ACTION TO DETERMINE~~ LEGAL SETTLEMENT DISPUTES.

1. ~~When~~ If a dispute arises between different counties or between the administrator and a county as to the legal settlement of a person admitted or committed to a state hospital for the mentally ill, the attorney general, at the request of the administrator, shall, without the advancement of fees, cause an action to be brought in the district court of any county where such dispute exists, to determine the person's legal settlement. This action may be brought at any time when it appears that the dispute cannot be amicably settled. All counties which may be the place of the legal settlement, so far as known, shall be made defendants and the allegation of the settlement may be in the alternative. The action shall be tried as in equity.

2. In lieu of an action filed under subsection 1, the parties to a dispute concerning a person's legal settlement may settle the dispute through an alternative dispute resolution process agreed to by the parties. The alternative dispute resolution process may include but is not limited to mediation, binding arbitration, or other mutually agreeable form of resolution. A resolution of the dispute agreed to by the parties shall be stipulated to and filed in the office of the clerk of the district court.

~~2~~ 3. If ~~the~~ an action under this section involves a dispute between counties, the county determined to be the county of legal settlement shall reimburse a county for the amount of costs paid by that county on behalf of the person and for interest on this amount in accordance with section 535.3. In addition, the court may order the county determined to be the county of legal settlement to reimburse any other county involved in the dispute for the other county's reasonable legal costs related to the dispute and may tax the reasonable legal costs as court costs. The court may order the county determined to be the county of legal settlement to pay a penalty to the other county, in an amount which does not exceed twenty percent of the total amount of reimbursement and interest.

Sec. 5. Section 230.13, Code 1993, is amended to read as follows:

230.13 JUDGMENT WHEN LEGAL SETTLEMENT FOUND WITHIN STATE.

~~The~~ If an action is entered under section 230.12, subsection 1, the court shall determine whether the legal settlement of ~~said mentally ill~~ the person with mental illness, at the time of the person's admission or commitment, was in one of the defendant counties. If the court ~~so find~~ finds a county to be the county of legal settlement, judgment shall be entered against the county ~~of such settlement~~ in favor of any other county for all legal costs and expenses arising out of ~~said~~ the proceedings ~~in mental illness~~ involving the person, and paid by ~~said other~~ the county of legal settlement. If any such costs have not been paid, judgment shall be rendered against the county of legal settlement in favor of the parties, including the state, to whom ~~said~~ the costs or expenses may be due.

Sec. 6. Section 230.14, Code 1993, is amended to read as follows:

230.14 ~~ORDER WHEN~~ LEGAL SETTLEMENT IN CASES INVOLVING NONRESIDENCE OR UNKNOWN SETTLEMENT ~~APPEARS~~.

If an alternative dispute resolution of the dispute filed under section 230.12, subsection 2, stipulates or the court finds that the legal settlement of ~~said mentally ill~~ the person with mental illness, at the time of admission or commitment, was in a foreign state or country, or was unknown, an order shall be entered that ~~said mentally ill~~ the person shall be maintained in the hospital for the mentally ill at the expense of the state. In such case the state shall refund to any county, with interest, all legal costs and expenses arising out of ~~said proceedings in mental illness~~ the legal settlement dispute and paid by ~~said~~ a county. Any stipulation filed or decision by the court shall be final.

DIVISION II

Housing for Persons with Disabilities

Sec. 7. Section 135C.2, subsection 5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The department shall establish a special classification within the residential care facility category in order to foster the development of residential care facilities which serve persons with mental retardation, chronic mental illness, ~~or~~ a developmental disability, or brain injury, as ~~defined~~ described under section 225C.26, and which contain five or fewer residents. A facility within the special classification established pursuant to this subsection is exempt from the requirements of section 135.63. The department shall adopt rules which are consistent with rules previously developed for the waiver demonstration project pursuant to 1986 Iowa Acts, chapter 1246, section 206, and which include all of the following provisions:

Sec. 8. Section 335.25, Code Supplement 1993, is amended to read as follows:

335.25 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of ~~developmentally disabled~~ persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "Brain injury" means brain injury as defined in section 135.22.

b. "Developmental disability" ~~or "developmentally disabled"~~ means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

~~b~~ c. "Family home" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight ~~developmentally disabled~~ persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster family home licensed under chapter 237.

~~c~~ d. "Permitted use" means a use by right which is authorized in all residential zoning districts.

~~d~~ e. "Residential" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

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, new family homes owned or operated by public or private agencies shall be ~~disbursed~~ dispersed 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.

4. A restriction, reservation, condition, exception, or covenant in a subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a county which permits residential use of property but prohibits the use of property as a family home for ~~developmentally disabled~~ persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

Sec. 9. Section 414.22, Code Supplement 1993, is amended to read as follows:

414.22 ZONING FOR FAMILY HOMES.

1. It is the intent of this section to assist in improving the quality of life of ~~developmentally disabled~~ persons with a developmental disability or brain injury by integrating them into the mainstream of society by making available to them community residential opportunities in the residential areas of this state. In order to implement this intent, this section shall be liberally construed.

2. a. "Brain injury" means brain injury as defined in section 135.22.

b. "Developmental disability" ~~or "developmentally disabled"~~ means a disability of a person which has continued or can be expected to continue indefinitely and which is one of the following:

(1) Attributable to mental retardation, cerebral palsy, epilepsy, or autism.

(2) Attributable to any other condition found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons or requires treatment and services similar to those required for the persons.

(3) Attributable to dyslexia resulting from a disability described in either subparagraph (1) or (2).

(4) Attributable to a mental or nervous disorder.

~~b~~ c. "Family home" means a community-based residential home which is licensed as a residential care facility under chapter 135C or as a child foster care facility under chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight ~~developmentally disabled~~ persons with a developmental disability or brain injury and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under chapter 237.

~~c~~ d. "Permitted use" means a use by right which is authorized in all residential zoning districts.

~~d~~ e. "Residential" means regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

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, new family homes owned and operated by public or private agencies shall be ~~disbursed~~ dispersed 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.

4. Any restriction, reservation, condition, exception, or covenant in any subdivision plan, deed, or other instrument of or pertaining to the transfer, sale, lease, or use of property in a city which permits residential use of property but prohibits the use of property as a family home for ~~developmentally disabled~~ persons with a developmental disability or brain injury, to the extent of the prohibition, is void as against the public policy of this state and shall not be given legal or equitable effect.

DIVISION III

Chapter 225C Rewrite

Sec. 10. Section 225C.1, Code 1993, is amended to read as follows:

225C.1 FINDINGS AND PURPOSE.

The general assembly finds that ~~community-based care,~~ services to persons with mental illness, mental retardation, developmental disabilities, or brain injury are provided in many parts

of the state by highly autonomous ~~community mental health and mental retardation~~ community-based service providers working cooperatively with state ~~mental health and mental retardation facilities, is meeting most mental health and mental retardation service needs of those Iowans to whom this care is available~~ and county officials. However, the general assembly recognizes that heavy reliance on property tax funding for mental health and mental retardation services has restricted uniform availability of this care. Consequently, greater efforts should be made to assure close coordination and continuity of care for those persons receiving publicly supported ~~mental health and mental retardation~~ disability services in Iowa. It is the purpose of this chapter to continue and to strengthen the ~~mental health and mental retardation~~ services to persons with disabilities now available in the state of Iowa, to make these services conveniently available to all persons in this state upon a reasonably uniform financial basis, and to assure the continued high quality of these services.

It is the intent of the general assembly that the service system for persons with disabilities emphasize the ability of persons with disabilities to exercise their own choices about the amounts and types of services received; that all levels of the service system seek to empower persons with disabilities to accept responsibility, exercise choices, and take risks; and that services be provided in a manner which supports the ability of persons with disabilities to live, learn, work, and recreate in natural communities of their choice.

Sec. 11. Section 225C.2, Code 1993, is amended to read as follows:

225C.2 DEFINITIONS.

As used in this chapter:

1. "Administrator" means the administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities of the department of human services.

2. "Commission" means the mental health and ~~mental retardation~~ developmental disabilities commission.

~~3. "Comprehensive services" means the mental health services delineated in the annual state mental health plan, and the mental retardation services delineated in the annual state mental retardation plan.~~

~~4~~ 3. "Department" means the department of human services.

~~5~~ 4. "Director" means the director of human services.

5. "Disability services" means services or other assistance available to a person with mental illness, mental retardation or other developmental disability, or brain injury.

6. "Division" means the division of mental health, ~~mental retardation,~~ and developmental disabilities of the department of human services.

7. "Person with a disability" means a person with mental illness, mental retardation or other developmental disability, or brain injury.

Sec. 12. Section 225C.3, Code 1993, is amended to read as follows:

225C.3 DIVISION OF MENTAL HEALTH, ~~MENTAL RETARDATION,~~ AND DEVELOPMENTAL DISABILITIES — STATE MENTAL HEALTH AUTHORITY.

1. The division is designated the state mental health authority as defined in 42 U.S.C. ~~sec.~~ § 201(m) (1976) for the purpose of directing the benefits of the National Mental Health Act, 42 U.S.C. ~~sec.~~ § 201 et seq. This designation does not preclude the board of regents from authorizing or directing any institution under its jurisdiction to carry out educational, prevention, and research activities in the areas of mental health and mental retardation. The division may contract with the board of regents or any institution under the board's jurisdiction to perform any of these functions.

2. The division is designated the state developmental disabilities agency for the purpose of directing the benefits of the Developmental Disabilities Services and Facilities Construction Act, 42 U.S.C. ~~sec.~~ § 6001 et seq.

3. The division is administered by the administrator. The administrator of the division shall be qualified in the general field of mental health, ~~or~~ mental retardation, or other disability services, and preferably in ~~both fields~~ more than one field. The administrator shall have at least five years of experience as an administrator in one or ~~both~~ more of these fields.

Sec. 13. Section 225C.4, Code 1993, is amended to read as follows:

225C.4 ADMINISTRATOR'S DUTIES.

1. ~~The~~ To the extent funding is available, the administrator shall perform the following duties:

a. Prepare and administer state mental health and mental retardation plans for the provision of ~~comprehensive~~ disability services within the state and prepare and administer the state developmental disabilities plan. The administrator shall consult with the Iowa department of public health, the state board of regents or a body designated by the board for that purpose, the department of management or a body designated by the director of the department for that purpose, the department of education, the division of job service of the department of employment services and any other appropriate governmental body, in order to facilitate ~~co-ordination~~ coordination of disability services provided ~~to mentally ill, mentally retarded, and developmentally disabled persons~~ in this state. The state mental health and mental retardation plans shall be consistent with the state health plan, ~~shall be prepared in consultation with the state health co-ordinating council,~~ and shall incorporate county ~~mental health and mental retardation~~ disability services plans.

b. Assist county ~~co-ordinating~~ boards of supervisors and mental health and developmental disabilities regional planning councils in ~~developing a program~~ planning for ~~community mental health and mental retardation~~ community-based disability services ~~within the state based on the need for comprehensive services, and the services offered by existing public and private facilities, with the goal of providing comprehensive services to all persons in this state who need them~~.

c. Emphasize the provision of outpatient services by community mental health centers and local mental retardation providers as a preferable alternative to inpatient hospital services.

d. Encourage and facilitate ~~co-ordination~~ coordination of disability services with the objective of developing and maintaining in the state a ~~mental health and mental retardation~~ disability service delivery system to provide ~~comprehensive~~ disability services to all persons in this state who need ~~them~~ the services, regardless of the place of residence or economic circumstances of those persons.

e. Encourage and facilitate applied research and preventive educational activities related to causes and appropriate treatment for ~~mental illness and mental retardation~~ disabilities. The administrator may designate, or enter into agreements with, private or public agencies to carry out this function.

f. Promote ~~co-ordination~~ coordination of community-based services with those of the state mental health institutes and state hospital-schools.

g. Administer state programs regarding the care, treatment, and supervision of ~~mentally ill or mentally retarded~~ persons with mental illness or mental retardation, except the programs administered by the state board of regents.

h. Administer and control the operation of the state institutions established by chapters 222 and 226, and any other state institutions or facilities providing care, treatment, and supervision to ~~mentally ill or mentally retarded~~ persons with mental illness or mental retardation, except the institutions and facilities of the state board of regents.

i. Administer ~~the~~ state ~~community mental health and mental retardation~~ appropriations to the mental health and developmental disabilities community services fund established by section 225C.7.

j. Act as compact administrator with power to effectuate the purposes of interstate compacts on mental health.

k. Establish and maintain a data collection and management information system oriented to the needs of patients, providers, the department, and other programs or facilities.

l. Prepare a division budget and reports of the division's activities.

~~m. Advise the personnel commission on recommended qualifications of all division employees.~~

~~n~~ m. Establish suitable agreements with other state agencies to encourage appropriate care and to facilitate the ~~co-ordination of mental health, mental retardation, and developmental disabilities~~ coordination of disability services.

~~o~~ n. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 229.19, in ~~co-operation~~ cooperation with the judicial ~~system~~ department and the care review committees appointed for ~~county~~ health care facilities pursuant to section 135C.25.

~~p~~ o. Provide consultation and technical assistance to patients' advocates appointed pursuant to section 222.59.

~~q~~ p. Provide technical assistance to agencies and organizations, to aid them in meeting standards which are established, or with which compliance is required, under statutes administered by the administrator, including but not limited to chapters 227 and 230A.

~~r~~ q. Recommend and enforce minimum accreditation standards for the maintenance and operation of community mental health centers under section 230A.16.

~~s~~ r. In ~~co-operation~~ cooperation with the department of inspections and appeals, recommend minimum standards under section 227.4 for the care of and services to ~~mentally ill and mentally retarded~~ persons with mental illness and mental retardation residing in county care facilities.

~~t~~ s. In ~~co-operation~~ cooperation with the Iowa department of public health, recommend minimum standards for the maintenance and operation of public or private facilities offering disability services ~~to mentally ill or mentally retarded persons~~, which are not subject to licensure by the department or the department of inspections and appeals.

t. Provide technical assistance concerning disability services and funding to counties and mental health and developmental disabilities regional planning councils.

2. The administrator may:

a. Apply for, receive, and administer federal aids, grants, and gifts for purposes relating to ~~mental health, mental retardation, and developmental disabilities~~ disability services or programs.

b. Establish mental health and mental retardation services for all institutions under the control of the director of human services and establish an autism unit, following mutual planning with and consultation from the medical director of the state psychiatric hospital, at an institution or a facility administered by the administrator to provide psychiatric and related services and other specific programs to meet the needs of autistic persons as defined in section 331.424, subsection 1, and to furnish appropriate diagnostic evaluation services.

c. Establish and supervise suitable standards of care, treatment, and supervision for ~~mentally ill and mentally retarded~~ persons with disabilities in all institutions under the control of the director of human services.

d. Appoint professional consultants to furnish advice on any matters pertaining to ~~mental health and mental retardation~~ disability services. The consultants shall be paid as provided by an appropriation of the general assembly.

e. Administer a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing to persons with ~~mental illness, mental retardation, or a developmental disability~~ disabilities in accordance with section 225C.45.

Sec. 14. Section 225C.5, Code 1993, is amended to read as follows:

225C.5 MENTAL HEALTH AND ~~MENTAL RETARDATION~~ DEVELOPMENTAL DISABILITIES COMMISSION.

1. A mental health and ~~mental retardation~~ developmental disabilities commission is ~~established~~ created as the state policy-making body for the provision of ~~mental health and mental retardation~~ services, ~~consisting~~ to persons with mental illness, mental retardation or other developmental disabilities, or brain injury. The commission shall consist of fifteen members appointed to three-year staggered terms by the governor and subject to confirmation by the senate. Commission members shall be appointed on the basis of interest and experience in the fields of mental health, ~~or~~ mental retardation or other developmental disabilities, and brain injury, in a manner so that, if possible, the composition of the commission will comply with the requirements of the Community Mental Health Centers Amendments of 1975, 42 U.S.C.~~sec.~~ § 2689t(a) (1976) relative to a state mental health advisory council, and so as to ensure

adequate representation from ~~both the mental health and mental retardation fields~~ persons with disabilities and individuals knowledgeable concerning disability services. ~~Four members of the commission shall be members of county boards of supervisors at the time of their appointment to the commission. Two members of the commission shall be members of county mental health and mental retardation co-ordinating boards at the time of their appointment to the commission. One member of the commission shall either be an active board member of a community mental health center or an active member of the Iowa mental health association at the time of appointment to the commission. One member of the commission shall be an active member of either a community mental retardation agency or the Iowa association for retarded citizens at the time of appointment to the commission.~~ Members of the commission shall include the following persons who, at the time of appointment to the commission, are active members of the indicated groups:

a. Four members shall be members of a county board of supervisors.

b. Two members shall be members of a mental health and developmental disabilities regional planning council.

c. One member shall be either an active board member of a community mental health center or of a statewide association of persons with mental illness or of family members of persons with mental illness.

d. One member shall be either an active board member of an agency serving persons with mental retardation or of a statewide association for persons with mental retardation.

e. One member shall be an active member of a statewide organization for persons with developmental disabilities other than mental retardation.

f. One member shall be an active member of a statewide organization for persons with brain injury.

2. The three-year terms shall begin and end as provided in section 69.19. Vacancies on the commission shall be filled as provided in section 2.32. A member shall not be appointed for more than two consecutive three-year terms.

3. Members of the commission shall qualify by taking the oath of office prescribed by law for state officers. At its first meeting of each year, the commission shall organize by electing a chairperson and a vice chairperson for terms of one year. Commission members are entitled to a per diem as specified in section 7E.6 and reimbursement for actual and necessary expenses incurred while engaged in their official duties, to be paid from funds appropriated to the department.

Sec. 15. Section 225C.6, Code 1993, is amended to read as follows:

225C.6 DUTIES OF COMMISSION.

1. ~~The~~ To the extent funding is available, the commission shall perform the following duties:

a. Advise the administrator on administration of the overall state plans for ~~comprehensive~~ disability services.

b. Adopt necessary rules pursuant to chapter 17A which relate to ~~mental health and mental retardation~~ disability programs and services, including but not limited to definitions of each disability included within the term "disability services" as necessary for purposes of state and regional planning, programs, and services.

c. Adopt standards for accreditation of community mental health centers and comprehensive community mental health programs recommended under section 230A.16.

d. Adopt standards for the care of and services to ~~mentally ill and mentally retarded~~ persons with mental illness and mental retardation residing in county care facilities recommended under section 227.4.

e. Adopt standards for the delivery of ~~mental health and mental retardation~~ disability services by the division, and for the maintenance and operation of public or private facilities offering services to ~~mentally ill or mentally retarded~~ persons with disabilities, which are not subject to licensure by the department or the department of inspections and appeals, and review the standards employed by the department or the department of inspections and appeals for licensing facilities which provide services to ~~the mentally ill or mentally retarded~~ persons with disabilities.

f. Assure that proper appeal procedures are available to persons aggrieved by decisions, actions, or circumstances relating to accreditation.

g. Award grants from the ~~special allocation of the state community mental health and mental retardation services fund pursuant to section 225C.11,~~ state and federal government as well as other moneys that become available to the division for grant purposes.

h. Review and rank applications for federal mental health grants prior to submission to the appropriate federal agency.

i. Annually submit to the governor and the general assembly:

(1) A report concerning the activities of the commission.

(2) Recommendations formulated by the commission for changes in law ~~and for changes in the rules adopted by the auditor of state under section 225C.10~~.

j. ~~Beginning not later than~~ By January 1, ~~1985,~~ ~~and continuing once every two years thereafter~~ of each odd-numbered year, submit to the governor and the general assembly an evaluation of:

(1) The extent to which ~~mental health and mental retardation~~ services to persons with disabilities stipulated in the state plans are actually available to persons in each county in the state.

(2) The cost effectiveness of the services being provided by each of the state mental health institutes established under chapter 226 and state hospital-schools established under chapter 222.

(3) The cost effectiveness of programs carried out by randomly selected providers receiving money from the state ~~community mental health and mental retardation services fund established under section 225C.7~~ for disability services.

k. Advise the administrator, the council on human services, the governor, and the general assembly on budgets and appropriations concerning ~~mental health and mental retardation~~ disability services.

l. ~~Meet~~ Consult with the ~~state developmental disabilities~~ Iowa governor's planning council for developmental disabilities at least twice a year ~~for the purpose of co-ordinating mental health, mental retardation, and developmental disabilities planning and funding~~.

m. Establish standards for the provision under medical assistance of individual case management services.

n. Establish standards for the structure of a service coordination system which ensures a linkage between the service coordination system and individual case management services.

o. Identify model eligibility guidelines for disability services.

p. Identify model guidelines for purchase of disability services and for disability service reimbursement methodologies.

q. Prepare, for mental health and developmental disabilities regional planning councils, advance estimates of state and, to the extent possible, federal funds available to counties for purchase of disability services.

r. Identify basic disability services for planning purposes.

s. Prepare five-year plans based upon the plans developed by mental health and developmental disabilities regional planning councils.

t. Identify disabilities services which are eligible for state payment under the mental health and developmental disabilities community services fund created in section 225C.7.

2. Notwithstanding section 217.3, subsection 6, the commission may adopt the rules authorized by subsection 1, pursuant to chapter 17A, without prior review and approval of those rules by the council on human services.

Sec. 16. Section 225C.7, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

225C.7 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES COMMUNITY SERVICES FUND.

1. A mental health and developmental disabilities community services fund is established in the office of the treasurer of state under the authority of the department, which shall consist of the amounts appropriated to the fund by the general assembly for each fiscal year. Before completion of the department's budget estimate as required by section 8.23, the department

shall determine and include in the estimate the amount which should be appropriated to the fund for the forthcoming fiscal period in order to implement the purpose stated in section 225C.1.

2. Moneys appropriated to the fund shall be allocated to counties for funding of community-based mental health, mental retardation, developmental disabilities, and brain injury services in the manner provided in the appropriation to the fund.

3. Provision of moneys from the fund is contingent upon a county participating in the county's mental health and developmental disabilities regional planning council established under section 225C.18.

4. 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 developmental disabilities 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.

5. a. A county is entitled to receive money from the fund if that county raised by county levy and expended for mental health, mental retardation, and developmental disabilities services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

b. 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 which began on July 1, 1980, and this amount shall be deemed each county's maintenance of effort.

Sec. 17. Section 225C.13, Code 1993, is amended to read as follows:

225C.13 AUTHORITY OF ADMINISTRATOR TO LEASE FACILITIES.

The administrator may enter into agreements under which a facility or portion of a facility administered by the administrator is leased to a department or division of state government, a county or group of counties, or a private nonprofit corporation organized under chapter 504A. A lease executed under this section shall require that the lessee use the leased premises to deliver either ~~comprehensive~~ disability services or other services normally delivered by the lessee.

Sec. 18. Section 225C.14, subsection 1, Code 1993, is amended to read as follows:

1. Except in cases of medical emergency, a person shall be admitted to a state mental health institute as an inpatient only after a preliminary diagnostic evaluation by a community mental health center or by an alternative diagnostic facility has confirmed that the admission is appropriate to the person's mental health needs, and that no suitable alternative method of providing the needed services in a less restrictive setting or in or nearer to the person's home community is currently available. The policy established by this section shall be implemented in the manner and to the extent prescribed by sections 225C.15, 225C.16 and 225C.17. ~~However, notwithstanding the mandatory language requiring preliminary diagnostic evaluations in this section and sections 225C.15, 225C.16 and 225C.17, preliminary diagnostic evaluations shall not be required until the fiscal year for which the general assembly has appropriated moneys to the state community mental health and mental retardation services fund under section 225C.7.~~

Sec. 19. NEW SECTION. 225C.18 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES REGIONAL PLANNING COUNCILS.

1. Mental health and developmental disabilities regional planning councils are established. The regions of the initial planning councils shall be the same as the regions of the

mental illness, mental retardation, developmental disabilities, and brain injury planning councils created pursuant to 1993 Iowa Acts, chapter 172, section 20, subsection 5. A region's planning area shall either utilize the borders of a pertinent field services cluster established in accordance with section 217.42 or have a population of forty thousand and include counties with a historical pattern of cooperation in providing disability services.

2. The members of a planning council shall include a member of the county board of supervisors of each county comprising the planning council and a sufficient number of disability service providers and service consumers or family members of service consumers to provide for adequate representation of the providers and consumers or family members. The board of supervisors of the counties comprising the planning council shall determine the size and membership of the planning council.

3. A county may request that the mental health and developmental disabilities commission approve the county to shift its membership in a regional planning council to a different planning council. In considering a request, the commission shall review geographic distance, natural market areas, tax structure, population factors, and other factors raised by the requestor and other affected counties concerning the planning council regions affected by the request.

4. A planning council shall perform the following tasks:

a. Develop a planning process and plan for services to persons with disabilities residing in the region. Planning shall encompass a five-year time span and shall be annually updated. The plans shall be submitted to the boards of supervisors of the counties in the region and to the commission.

b. Recommend the expenditure of all state and county funds, and to the extent possible, federal funds for disability services within the region.

c. Provide for input into the planning process by the public and service consumers, providers, and funders.

d. Work with staff assigned to the planning council to perform needs assessments, plan development, and to work with consumers, providers, and funders, and fulfill other necessary functions.

e. Make recommendations to the county boards of supervisors associated with the planning area and to the commission, concerning disability services and related budget issues.

f. Perform other duties at the request of the counties comprising the region and of the commission.

5. The requirements of this section relating to services to persons with disabilities are not intended as and shall not be construed as a requirement to provide services.

Sec. 20. Section 225C.21, subsection 3, Code 1993, is amended to read as follows:

3. Approved community, supervised apartment living arrangements may receive funding from the state ~~community mental health and mental retardation services fund~~, federal and state social services block grant funds, and other appropriate funding sources, consistent with state legislation and federal regulations. The funding may be provided on a per diem, per hour, or grant basis, as appropriate.

Sec. 21. Section 225C.45, subsection 1, Code 1993, is amended to read as follows:

1. The administrator may establish a public housing unit within a bureau of the division to apply for, receive, and administer federal assistance, grants, and other public or private funds for purposes related to providing housing to persons with mental illness, mental retardation~~,~~ or ~~a~~ other developmental disability, or brain injury.

DIVISION IV
Coordinating Amendments

Sec. 22. Section 135C.2, subsection 5, paragraph f, subparagraph (4), Code 1993, is amended to read as follows:

(4) The mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5.

Sec. 23. Section 135C.23, subsection 2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

This section does not prohibit the admission of a patient with a history of dangerous or disturbing behavior to an intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility has a program which has received prior approval from the department to properly care for and manage the patient. An intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility is required to transfer or discharge a resident with dangerous or disturbing behavior when the intermediate care facility for the mentally ill, intermediate care facility for the mentally retarded, nursing facility, or county care facility cannot control the resident's dangerous or disturbing behavior. The department, in coordination with the state mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5, shall adopt rules pursuant to chapter 17A for programs to be required in intermediate care facilities for the mentally ill, intermediate care facilities for the mentally retarded, nursing facilities, and county care facilities that admit patients or have residents with histories of dangerous or disturbing behavior.

Sec. 24. Section 135C.25, subsection 1, Code 1993, is amended to read as follows:

1. Each health care facility shall have a care review committee whose members shall be appointed by the director of the department of elder affairs or the director's designee. A person shall not be appointed a member of a care review committee for a health care facility unless the person is a resident of the service area where the facility is located. The care review committee for any facility caring primarily for persons ~~who are mentally ill, mentally retarded, or developmentally disabled~~ with mental illness, mental retardation, or a developmental disability shall only be appointed after consultation with the administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities of the department of human services on the proposed appointments. Recommendations to the director or the director's designee for membership on care review committees are encouraged from any agency, organization, or individual. The administrator of the facility shall not be appointed to the care review committee and shall not be present at committee meetings except upon request of the committee.

Sec. 25. Section 154D.2, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. Has at least two years of supervised clinical experience or its equivalent as approved by the board in consultation with the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5.

Sec. 26. Section 154D.2, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. Has at least two years of clinical experience, supervised by a licensee, in assessing mental health needs and problems and in providing appropriate mental health services as approved by the board of behavioral science examiners in consultation with the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5.

Sec. 27. Section 217.6, unnumbered paragraph 2, Code 1993, is amended to read as follows:

The department of human services may be initially divided into the following divisions of responsibility: ~~The~~ the division of child and family services, the division of mental health, ~~mental retardation,~~ and developmental disabilities, the division of administration, and the division of planning, research and statistics.

Sec. 28. Section 217.10, Code 1993, is amended to read as follows:

217.10 ADMINISTRATOR OF DIVISION OF MENTAL HEALTH, ~~MENTAL RETARDATION,~~ AND DEVELOPMENTAL DISABILITIES.

The administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities shall be qualified as provided in section 225C.3, subsection 3. The administrator's duties are enumerated in section 225C.4.

Sec. 29. Section 218.3, subsection 2, Code 1993, is amended to read as follows:

2. The administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities of the department of human services has primary authority and responsibility relative to the following institutions: Glenwood state hospital-school, Woodward state hospital-school, mental health institute, Cherokee, Iowa, mental health institute, Clarinda, Iowa, mental health institute, Independence, Iowa and mental health institute, Mount Pleasant, Iowa.

Sec. 30. Section 218.4, unnumbered paragraph 2, Code 1993, is amended to read as follows:

~~Such rules when prescribed or approved~~ Rules adopted by the council shall be uniform and shall apply to all institutions under the particular administrator and to all other institutions under the administrator's jurisdiction and the primary rules of the administrator of the division of mental health and developmental disabilities for use in institutions where ~~the mentally ill~~ persons with mental illness are ~~kept~~ served shall, unless otherwise indicated, uniformly apply to county or private hospitals ~~wherein the mentally ill~~ in which persons with mental illness are ~~kept~~ served, but ~~such~~ the rules shall not interfere with proper medical treatment administered patients by competent physicians. Annually, signed copies of ~~such~~ the rules shall be sent to the chief executive officer of each ~~such~~ institution or hospital under the control or supervision of a particular administrator and copies shall also be sent to the clerk of each district court, the chairperson of the board of supervisors of each county and, as appropriate, to the officer in charge of institutions or hospitals caring for ~~the mentally ill~~ persons with mental illness in each county who shall be responsible for seeing that the ~~same is~~ rules are posted in each institution or hospital in a prominent place. ~~Such~~ The rules shall be kept current to meet the public need and shall be revised and published annually.

Sec. 31. Section 218.9, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities of the department of human services, subject to the approval of the director of the department, shall appoint the superintendents of the state hospital-schools ~~for the mentally retarded~~ and the state mental health institutes.

Sec. 32. Section 218.30, Code 1993, is amended to read as follows:

218.30 INVESTIGATION OF OTHER INSTITUTIONS.

The administrators of the department of human services to whom control of state institutions has been delegated, or their authorized officers or employees, may investigate charges of abuse, neglect, or mismanagement on the part of any officer or employee of any private institution which is subject to ~~such~~ the administrator's particular supervision or control. The administrator of the division of mental health and developmental disabilities, or the administrator's authorized officer or employee, shall ~~likewise~~ also investigate charges concerning county care facilities in which ~~mentally ill~~ persons with mental illness are ~~kept~~ served.

Sec. 33. Section 218.92, Code 1993, is amended to read as follows:

218.92 DANGEROUS MENTAL PATIENTS.

When a patient in a state hospital-school for the mentally retarded, a mental health institute, or an institution under the administration of the administrator of the division of mental health and developmental disabilities of the department of human services, has become so mentally disturbed as to constitute a danger to self, to other patients in the institution, or to the public, and the institution cannot provide adequate security, the administrator, ~~of mental health~~ with the consent of the director of the Iowa department of corrections, may order the patient to be transferred to the Iowa medical and classification center, if the executive head of the institution from which the patient is to be transferred, with the support of a majority of the medical staff, recommends the transfer in the interest of the patient, other patients, or the public. If the patient transferred was hospitalized pursuant to sections 229.6 to 229.15, the transfer shall be promptly reported to the court which hospitalized the patient, as required by section 229.15, subsection 4. The Iowa medical and classification center has the same rights, duties, and responsibilities with respect to the patient as the institution from which the patient

was transferred had while the patient was hospitalized there. The cost of the transfer shall be paid from the funds of the institution from which the transfer is made.

Sec. 34. Section 221.2, Code 1993, is amended to read as follows:

221.2 ADMINISTRATOR.

Pursuant to the compact, the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services shall be the compact administrator. The compact administrator may ~~co-operate~~ cooperate with all departments, agencies and officers of this state and its subdivisions in facilitating the proper administration of the compact and of any supplementary agreement entered into by this state under the compact.

Sec. 35. Section 222.2, subsection 1, Code 1993, is amended to read as follows:

1. "Administrator" means the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services.

Sec. 36. Section 226.47, Code 1993, is amended to read as follows:

226.47 ~~"ADMINISTRATOR"~~ ADMINISTRATOR DEFINED.

For the purpose of this chapter, "administrator" means the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services.

Sec. 37. Section 227.4, Code 1993, is amended to read as follows:

227.4 STANDARDS FOR CARE OF ~~MENTALLY ILL AND MENTALLY RETARDED~~ PERSONS WITH MENTAL ILLNESS OR MENTAL RETARDATION IN COUNTY CARE FACILITIES.

The administrator, in ~~co-operation~~ cooperation with the ~~state~~ department of ~~health~~ inspections and appeals, shall recommend, and the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5 shall adopt standards for the care of and services to ~~mentally ill and mentally retarded~~ persons with mental illness or mental retardation residing in county care facilities. The standards shall be enforced by the department of inspections and appeals as a part of the licensure inspection conducted pursuant to chapter 135C. The objective of the standards is to ensure that ~~mentally ill and mentally retarded~~ persons with mental illness or mental retardation who are residents of county care facilities are not only adequately fed, clothed, and housed, but are also offered reasonable opportunities for productive work and recreational activities suited to their physical and mental abilities and offering both a constructive outlet for their energies and, if possible, therapeutic benefit. When recommending standards under this section, the administrator shall designate an advisory committee representing administrators of county care facilities, county ~~co-ordinating boards~~ mental health and developmental disabilities regional planning councils, and county care facility care review committees to assist in the establishment of standards.

Sec. 38. Section 227.19, Code 1993, is amended to read as follows:

227.19 ~~"ADMINISTRATOR"~~ ADMINISTRATOR DEFINED.

For the purpose of this chapter, "administrator" means the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services.

Sec. 39. Section 230.34, Code 1993, is amended to read as follows:

230.34 ~~"ADMINISTRATOR"~~ ADMINISTRATOR DEFINED.

As used in this chapter, "administrator" means the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services.

Sec. 40. Section 230A.1, Code 1993, is amended to read as follows:

230A.1 ESTABLISHMENT AND SUPPORT OF COMMUNITY MENTAL HEALTH CENTERS.

A county or affiliated counties, by action of the board or boards of supervisors, with approval of the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services, may establish a community mental health

center under this chapter to serve the county or counties. In establishing the community mental health center, the board of supervisors of each county involved may make a single nonrecurring expenditure, in an amount determined by the board. This section does not limit the authority of the board or boards of supervisors of any county or group of counties to continue to expend money to support operation of the center, and to form agreements with the board of supervisors of any additional county for that county to join in supporting and receiving services from or through the center.

Sec. 41. Section 230A.2, Code 1993, is amended to read as follows:

230A.2 SERVICES OFFERED.

A community mental health center established or operating as authorized by section 230A.1 may offer to residents of the county or counties it serves any or all of the mental health services defined by the mental health and ~~mental retardation~~ developmental disabilities commission in the state mental health plan.

Sec. 42. Section 230A.16, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services shall recommend and the mental health and ~~mental retardation~~ developmental disabilities commission shall adopt standards for community mental health centers and comprehensive community mental health programs, with the overall objective of ensuring that each center and each affiliate providing services under contract with a center furnishes high quality mental health services within a framework of accountability to the community it serves. The standards shall be in substantial conformity with those of the psychiatric committee of the joint ~~committee~~ commission on accreditation of ~~hospitals~~ health care organizations and other recognized national standards for evaluation of psychiatric facilities unless in the judgment of the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities, with approval of the mental health and ~~mental retardation~~ developmental disabilities commission, there are sound reasons for departing from ~~such~~ the standards. When recommending standards under this section, the administrator of the division ~~of mental health, mental retardation, and developmental disabilities~~ shall designate an advisory committee representing boards of directors and professional staff of community mental health centers to assist in the formulation or revision of standards. At least a simple majority of the members of the advisory committee shall be lay representatives of community mental health center boards of directors. At least one member of the advisory committee shall be a member of a county board of supervisors. The standards recommended under this section shall include requirements that each community mental health center established or operating as authorized by section 230A.1 shall:

Sec. 43. Section 230A.16, subsection 3, Code 1993, is amended to read as follows:

3. Arrange for the financial condition and transactions of the community mental health center to be audited once each year by the auditor of state. However, in lieu of an audit by state accountants, the local governing body of a community mental health center organized under this chapter may contract with or employ certified public accountants to conduct the audit, pursuant to the applicable terms and conditions prescribed by sections 11.6 and 11.19 and audit format prescribed by the auditor of state. Copies of each audit shall be furnished by the accountant to the administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities, and the board of supervisors supporting the audited community mental health center.

Sec. 44. Section 230A.17, Code 1993, is amended to read as follows:

230A.17 REVIEW AND EVALUATION.

The administrator of the division of mental health~~, mental retardation,~~ and developmental disabilities of the department of human services may review and evaluate any community mental health center upon the recommendation of the mental health and ~~mental retardation~~ developmental disabilities commission, and shall do so upon the written request of the center's board

of directors, its chief medical or administrative officer, or the board of supervisors of any county from which the center receives public funds. The cost of the review shall be paid by the division ~~of mental health, mental retardation, and developmental disabilities~~.

Sec. 45. Section 230A.18, Code 1993, is amended to read as follows:

230A.18 REPORT OF REVIEW AND EVALUATION.

Upon completion of a review made pursuant to section 230A.17, the review shall be submitted to the board of directors and chief medical or administrative officer of the center. If the review concludes that the center fails to meet any of the standards established pursuant to section 230A.16, subsection 1, and that the response of the center to this finding is unsatisfactory, these conclusions shall be reported to the mental health and ~~mental retardation~~ developmental disabilities commission which may forward the conclusions to the board of directors of the center and request an appropriate response within thirty days. If no response is received within thirty days, or if the response is unsatisfactory, the commission may call this fact to the attention of the board of supervisors of the county or counties served by the center, and in doing so shall indicate what corrective steps have been recommended to the center's board of directors.

Sec. 46. Section 231.44, subsection 2, Code 1993, is amended to read as follows:

2. The responsibilities of the care review committee are in accordance with the rules adopted by the commission pursuant to chapter 17A. When adopting the rules, the commission shall consider the needs of residents of each category of licensed health care facility as defined in section 135C.1, subsection 4, and the services each facility may render. The commission shall coordinate the development of rules with the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5 to the extent the rules would apply to a facility primarily serving persons ~~who are mentally~~ ill, ~~mentally retarded, or developmentally disabled~~ with mental illness, mental retardation, or a developmental disability. The commission shall coordinate the development of appropriate rules with other state agencies.

Sec. 47. Section 249A.25, subsection 3, Code 1993, is amended to read as follows:

3. The oversight committee shall have nine members. Two members shall be designated by the fiscal committee of the legislative council and are subject to approval by the governor. The director of human services and the administrator of the division of mental health, ~~mental retardation,~~ and developmental disabilities or their designees shall be members. Three members shall be designated by the Iowa state association of counties. One member shall be designated by the ~~state~~ mental health and ~~mental retardation~~ developmental disabilities commission. One member shall be designated by the Iowa governor's planning council on developmental disabilities. Members shall serve staggered three-year terms and vacancies shall be filled in the same manner as the initial appointment. Members are entitled to actual and necessary expenses.

Sec. 48. Section 249A.25, subsection 4, paragraph d, Code 1993, is amended to read as follows:

d. Review and make recommendations regarding the county case management implementation plan and budget to the ~~state~~ mental health and ~~mental retardation~~ developmental disabilities commission.

Sec. 49. Section 249A.25, subsection 4, paragraph f, Code 1993, is amended to read as follows:

f. Recommend action regarding variations from the budgeted, appropriated, and identified expenditures and projected expenditure offsets to the council on human services and the ~~state~~ mental health and ~~mental retardation~~ developmental disabilities commission.

Sec. 50. Section 249A.25, subsection 4, paragraph h, Code 1993, is amended to read as follows:

h. Recommend rules, or amendments to existing rules, which implement the provisions of this section, to the council on human services and the ~~state~~ mental health and ~~mental retardation~~ developmental disabilities commission.

Sec. 51. Section 262.70, Code 1993, is amended to read as follows:

262.70 EDUCATION, PREVENTION, AND RESEARCH PROGRAMS IN MENTAL HEALTH AND MENTAL RETARDATION.

The division of mental health, ~~mental retardation,~~ and developmental disabilities of the department of human services may contract with the board of regents or any institution under the board's jurisdiction to establish and maintain programs of education, prevention, and research in the fields of mental health and mental retardation. The board may delegate responsibility for these programs to the state psychiatric hospital, the university hospital, or any other appropriate entity under the board's jurisdiction.

Sec. 52. Section 331.424, subsection 1, paragraph g, Code 1993, is amended to read as follows:

g. Amounts budgeted by the board for mental health services or mental retardation services furnished to persons on either an outpatient or inpatient basis, to a school or other public agency, or to the community at large, by a community mental health center or other suitable facility located in or reasonably near the county, provided that services meet the standards of the mental health and ~~mental retardation~~ developmental disabilities commission created in section 225C.5 and are consistent with the annual plan for services approved by the board.

Sec. 53. Section 331.756, subsection 45, Code Supplement 1993, is amended to read as follows:

45. Appear on behalf of the ~~director~~ administrator of the division of mental health and developmental disabilities of the department of human services in support of an application to transfer a ~~mentally ill~~ person with mental illness who becomes incorrigible and dangerous from a state hospital for the mentally ill to the Iowa medical and classification center as provided in section 226.30.

Sec. 54. REPEAL. Sections 225C.8, 225C.9, 225C.10, and 225C.11, Code 1993, are repealed.

DIVISION V
Amendment of Administrative Rules — Service Facility
Regulatory Requirements

Sec. 55. ADMINISTRATIVE RULES. The department of human services shall not amend an administrative rule solely for the purpose of making the changes in the names of the mental health and mental retardation commission and the division of mental health, mental retardation, and developmental disabilities required by this Act.

Sec. 56. REGULATORY REQUIREMENTS. The director of human services shall convene a task force which includes mental retardation service consumers and family members, community-based providers, advocates, representatives of the Iowa state association of counties and the department of inspections and appeals, and other appropriate persons or entities. The task force shall review outcome-based performance standards for facilities and services directed to persons with mental retardation and assess the impact of state and federal rules and regulations upon the efficiency and cost-effectiveness of the facilities and services. The task force shall identify outcome-based performance standards, and rules and regulations which if waived, would improve the efficiency and cost-effectiveness of the facilities and services. Based upon the findings of the task force, the director may request federal waivers to implement demonstration projects serving persons with mental retardation in which the outcome-based performance standards are applied and the identified rules and regulations are waived. The task force shall make a progress report to the governor and the general assembly in January 1995. The director shall not implement demonstration projects in a manner which would require additional funding on the part of the state or counties.

Sec. 57. BRAIN INJURY SERVICES WAIVER. The department of human services shall not propose or implement a medical assistance home and community-based waiver for services

to persons with brain injury in a manner which would require provision of county funding relating to the services or matching of the federal funding. However, the department may propose or implement such a waiver in a manner which would permit the optional financial participation of counties.

Approved May 11, 1994

CHAPTER 1171

CHILD SUPPORT, PATERNITY, AND RELATED MATTERS

H.F. 2410

AN ACT relating to child support recovery including paternity establishment provisions, making a penalty applicable, and providing effective date and retroactive applicability provisions.

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

Section 1. Section 85.59, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

For purposes of this section, "inmate" includes a person who is performing unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or an inmate providing 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. For purposes of this section, "unpaid community service under the direction of the district court" includes but is not limited to community service ordered and performed pursuant to section 598.23A.

Sec. 2. Section 144.13, subsection 1, paragraph e, Code Supplement 1993, is amended to read as follows:

e. ~~In the case of a child born out of wedlock,~~ If an affidavit of paternity is obtained directly from the county registrar and is filed pursuant to section 252A.3A ~~shall be filed directly with~~ the county registrar shall forward the original affidavit to the state registrar.

Sec. 3. Section 144.13, subsection 4, Code Supplement 1993, is amended to read as follows:

4. The division shall make all of the following available to the child support recovery unit, upon request~~, a~~:

a. A copy of a child's birth certificate~~, the~~.

b. The social security numbers of the mother and the father~~, and a~~.

c. A copy of the affidavit of paternity if ~~provided~~ filed pursuant to section 252A.3A.

d. Information, other than information for medical and health use only, identified on a child's birth certificate or on an affidavit of paternity filed pursuant to section 252A.3A. The information may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

Sec. 4. Section 144.40, Code Supplement 1993, is amended to read as follows:

144.40 PATERNITY OF CHILDREN ~~OUT OF WEDLOCK~~ — BIRTH CERTIFICATES.

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, or a certified copy or notification by the clerk of court of a court or administrative order establishing paternity, 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".

Sec. 5. Section 144.43, subsection 1, Code 1993, is amended to read as follows:

1. A record of birth ~~if that birth did not occur out of wedlock~~.

Sec. 6. Section 144.44, Code 1993, is amended to read as follows:

144.44 PERMITS FOR RESEARCH.

The department may permit access to vital statistics by professional genealogists and historians, and may authorize the disclosure of data contained in vital statistics records when deemed essential for bona fide research purposes which are not for private gain. ~~Information in vital statistics records indicating that a birth occurred out of wedlock shall not be disclosed except as provided by regulation or upon order of a district court.~~ The department shall adopt rules which establish the parameters for access to and authorized disclosure of vital statistics and data contained in vital statistics records relating to birth and adoption records under this section.

Sec. 7. Section 232.4, Code 1993, is amended to read as follows:

232.4 JURISDICTION — SUPPORT OBLIGATION.

Notwithstanding any other provision of this chapter, and for the purposes of establishing a parental liability obligation for a child under the jurisdiction of the juvenile court, ~~the court shall establish~~ a support obligation shall be established pursuant to section 234.39 ~~or the department shall establish a support obligation pursuant to chapter 252C, provided that a support obligation has not previously been established under an order of the district court or chapter 252C~~.

Sec. 8. Section 234.39, subsection 1, Code 1993, is amended to read as follows:

1. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department, ~~if a support obligation has not previously been established under an order of the district court or court of comparable jurisdiction in another state or pursuant to chapter 252C~~. The court, or the department of human services in establishing support by administrative order, shall establish the amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court, or the department of human services in establishing support by administrative order, may deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

Sec. 9. NEW SECTION. 249A.4A GARNISHMENT.

When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department may garnish the wages, salary, or other compensation of the person obligated to pay child support or may withhold amounts pursuant to chapter 252D from the income of the person obligated to pay support, and shall

withhold amounts from state income tax refunds of a person obligated to pay support, to the extent necessary to reimburse the department for expenditures for medical care or expenses on behalf of a recipient if all of the following conditions apply:

1. The person is required by court or administrative order to provide medical support to a recipient.

2. The person has received payment from a third party for the costs of medical assistance to the recipient and has not used the payments to reimburse the costs of medical care or expenses.

Sec. 10. Section 252A.2, Code Supplement 1993, is amended by adding the following new subsections before subsection 1 and renumbering the subsequent subsections:

NEW SUBSECTION. 1. "Birthing hospital" means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital.

NEW SUBSECTION. 1A. "Birth center" means birth center as defined in section 135G.2.

Sec. 11. Section 252A.2, Code Supplement 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Institution" means a birthing hospital or birth center.

NEW SUBSECTION. 6A. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child.

Sec. 12. Section 252A.3, subsection 9, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. By establishment of paternity in a foreign jurisdiction in any manner provided for by the laws of that jurisdiction.

Sec. 13. Section 252A.3A, Code Supplement 1993, is amended by striking the section and inserting in lieu thereof the following:

252A.3A ESTABLISHING PATERNITY BY AFFIDAVIT.

1. The paternity of a child born out of wedlock may be legally established by the completion and filing of an affidavit of paternity only as provided by this section.

2. Establishment of paternity by affidavit under this section may be used to establish paternity of the following children:

a. The child of a woman who was unmarried at the time of conception and birth of the child.

b. The child of a woman who is married at the time of conception or birth of the child if 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.

3. a. Prior to or at the time of completion of an affidavit of paternity, written information about paternity establishment, developed by the child support recovery unit created in section 252B.2, shall be provided to the mother and putative father.

b. The information provided shall include a description of parental rights and responsibilities, including the duty to provide financial support for the child, and the benefits of establishing paternity.

c. Copies of the written information shall be made available by the child support recovery unit or the Iowa department of public health to those entities where an affidavit of paternity may be obtained as provided under subsection 4.

4. a. The affidavit of paternity form developed and used by the Iowa department of public health is the only affidavit of paternity form recognized for the purpose of establishing paternity under this section.

b. The form shall be available from the state registrar, each county registrar, the child support recovery unit, and any institution in the state.

c. The Iowa department of public health shall make copies of the form available to the entities identified in paragraph "b" for distribution.

5. A completed affidavit of paternity shall contain or have attached all of the following:

a. A statement by the mother consenting to the assertion of paternity and the identity of the father and acknowledging either of the following:

(1) That the mother was unmarried at the time of conception and birth of the child.

(2) That the mother was married at the time of conception or birth of the child, and that a court order has been entered ruling that the individual to whom the mother was married at that time is not the father of the child.

b. If paragraph "a", subparagraph (2), is applicable, a certified copy of the filed order ruling that the husband is not the father of the child.

c. A statement from the putative father that the putative father is the father of the child.

d. The name of the child at birth and the child's birth date.

e. The signatures of the mother and putative father.

f. The social security numbers of the mother and putative father.

g. The addresses of the mother and putative father, as available.

h. The signature of a notary public attesting to the identities of the parties signing the affidavit of paternity.

i. Instructions for filing the affidavit.

6. A completed affidavit of paternity shall be filed with the state registrar. However, if the affidavit of paternity is obtained directly from the county registrar, the completed affidavit may be filed with the county registrar who shall forward the original affidavit to the state registrar. For the purposes of legal establishment of paternity under this section, paternity is legally established only upon filing of the affidavit with the state registrar.

7. The state registrar shall make copies of affidavits of paternity and identifying information from the affidavits filed pursuant to this section available to the child support recovery unit created under section 252B.2 in accordance with section 144.13, subsection 4.

8. An affidavit of paternity completed and filed pursuant to this section has all of the following effects:

a. Is admissible as evidence of paternity.

b. Has the same legal force and effect as a judicial determination of paternity.

c. Serves as a basis for seeking child or medical support without further determination of paternity.

9. All institutions in the state shall provide the following services with respect to any newborn child born out of wedlock:

a. Prior to discharge of the newborn from the institution, the institution where the birth occurs shall provide the mother and, if present, the putative father, with all of the following:

(1) Written information about establishment of paternity pursuant to subsection 3.

(2) An affidavit of paternity form.

(3) An opportunity for consultation with the staff of the institution regarding the written information provided under subparagraph (1).

(4) An opportunity to complete an affidavit of paternity at the institution, as provided in this section.

b. The institution shall file any affidavit of paternity completed at the institution with the state registrar, pursuant to subsection 6, accompanied by a copy of the child's birth certificate, within ten days of the birth of the child.

10. a. An institution may be reimbursed by the child support recovery unit created in section 252B.2 for providing the services described under subsection 9, or may provide the services at no cost.

b. An institution electing reimbursement shall enter into a written agreement with the child support recovery unit for this purpose.

c. An institution entering into an agreement for reimbursement shall assist the parents of a child born out of wedlock in completing and filing an affidavit of paternity.

d. Reimbursement shall be based only on the number of affidavits completed in compliance with this section and submitted to the state registrar during the duration of the written agreement with the child support recovery unit.

e. The reimbursement rate is twenty dollars for each completed affidavit filed with the state registrar.

Sec. 14. NEW SECTION. 252A.6A ADDITIONAL PROVISIONS REGARDING PATERNITY ESTABLISHMENT.

1. When a court of this state is acting as the responding state in an action initiated under this chapter to establish paternity, all of the following shall apply:

a. Except with the consent of all parties, the trial shall not be held until after the birth of the child and shall be held no earlier than twenty days from the date the respondent is served with notice of the action or, if blood or genetic tests are conducted, no earlier than fifty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

b. If the respondent, after being served with notice as required under section 252A.6, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the respondent in default, and shall enter an order establishing paternity and establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

2. When a court of this state is acting as the responding state in an action initiated under this chapter to establish child or medical support based on a prior determination of paternity and the respondent files an answer to the notice required under section 252A.6 denying paternity, all of the following shall apply:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or an administrative order entered pursuant to chapter 252F, or an order by the courts of this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41 are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome, pursuant to section 600B.41, and that the respondent has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

b. If the prior determination of paternity is based on an administrative or court order or by any other means, pursuant to the laws of a foreign jurisdiction, an action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless the respondent requests and is granted a stay of an action initiated under this chapter to establish child or medical support, the action shall proceed as otherwise provided in this chapter.

Sec. 15. Section 252B.5, subsection 2, Code Supplement 1993, is amended to read as follows:

2. Aid in establishing paternity and securing a court or administrative order for support pursuant to chapter 252A, 252C, 252F, or 600B, or any other chapter providing for the establishment of paternity or support.

Sec. 16. Section 252B.9, subsection 2, paragraph b, subparagraph (2), Code Supplement 1993, is amended to read as follows:

(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 address, if known, of the support obligor, unless the information pertaining to the address of the support obligor is protected through confidentiality requirements established by law and has not otherwise been verified with the unit, 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, and the range within which the balance of the support obligor's delinquency is established. 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~~ current 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.

Sec. 17. Section 252B.18, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

252B.18 CHILD SUPPORT ADVISORY COMMITTEE – ESTABLISHED – DUTIES.

1. a. The department shall establish a child support advisory committee. Members shall include at least one district judge and representatives of custodial parent groups, noncustodial parent groups, the general assembly, the office of citizens' aide, the Iowa state bar association, the Iowa county attorneys' association, and other constituencies which have an interest in child support enforcement issues, appointed by the respective entity.

b. The legislative members of the committee shall be appointed by the majority leader of the senate, after consultation with the president of the senate, and the minority leader of the senate, and by the speaker of the house, after consultation with the majority leader and the minority leader of the house of representatives. Members shall serve staggered terms of two years. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointments.

c. Nonlegislative members shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6. Legislative members shall receive compensation pursuant to section 2.12.

2. The committee shall select a chairperson, annually, from its membership. A majority of the members of the committee shall constitute a quorum.

3. The child support advisory committee shall assist the department in all of the following activities:

a. Review of existing child support guidelines and recommendations for revision.

b. Examination of the operation of the child support system to identify program improvements or enhancements which would increase the effectiveness of securing parental support and parental involvement.

c. Recommendation of legislation which would clarify and improve state law regarding support for children.

4. The committee shall receive input from the public regarding the issues identified in subsection 3. The methods by which public input may be accessed may include but are not limited to public hearings, focus groups, and surveys.

Sec. 18. Section 252B.20, subsection 1, paragraph b, Code Supplement 1993, is amended to read as follows:

b. The ~~person entitled to receive support and the~~ child for whom support is ordered ~~are~~ is 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.

Sec. 19. Section 252B.21, subsection 1, Code Supplement 1993, is amended to read as follows:

1. For any support order being enforced by the unit, the ~~administrator~~ unit 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 order shall be served upon the obligor by regular mail, with proof of service completed as provided in rule of civil procedure 82. The unit shall file a copy of the order with the clerk of the district court.

Sec. 20. Section 252C.2, subsections 2, 3, and 4, Code 1993, are amended to read as follows:

2. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. ~~If a court order has not been entered in Iowa, or if an order does not address accrued support owed to the state for public assistance expended, the~~ The administrator may establish a support debt as to amounts accrued and accruing pursuant to section 598.21, subsection 4. However, a support debt is not created in favor of the department against a responsible person for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker.

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the administrator. ~~If a court order has not been entered in Iowa, the~~ The administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, both as to amounts accrued and accruing, pursuant to section 598.21, subsection 4.

4. The payment of medical assistance pursuant to chapter 249A for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department. ~~If a court order has not been entered in Iowa, or if an administrative order or a court order entered in Iowa does not require provision of medical support pursuant to chapter 252E, or equivalent medical support, the~~ The administrator may establish an order for medical support.

Sec. 21. Section 252C.4, subsections 1, 2, and 5, Code Supplement 1993, are amended to read as follows:

1. A responsible person or the child support recovery unit may request a hearing regarding a determination of support. If a timely written request for a hearing is received, the administrator shall certify the matter to the district court ~~in the county in which the order has been filed, or if no such order has been filed, then to a district court in the county where the dependent child resides or, where the dependent child resides in another state, to the district court where the absent parent resides.~~ as follows:

a. If the child or children reside in Iowa, and the unit is seeking an accruing obligation, in the county in which the dependent child or children reside.

b. If the child or children received public assistance in Iowa, and the unit is seeking only an accrued obligation, in the county in which the dependent child or children last received public assistance.

c. If the action is the result of a request from a foreign jurisdiction to establish support by a responsible person located in Iowa, in the county in which the responsible person resides.

2. ~~If the matter has not been heard previously by the district court, or an existing administrative order does not provide for medical support pursuant to chapter 252E, the~~ The certification shall include true copies of the notice and finding of financial responsibility or notice of the support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

5. If a party fails to appear at the hearing, upon a showing of proper notice to that party, the court ~~may~~ shall find that party in default and enter an appropriate order.

Sec. 22. Section 252C.4, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a responsible person contests an action initiated under this chapter by denying paternity, the following shall apply, as necessary:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or an administrative order entered pursuant to chapter 252F, or

an order by the courts of this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41 are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome pursuant to section 600B.41, and that the responsible person has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

b. If the prior determination of paternity is based on an administrative or court order or other means, pursuant to the laws of a foreign jurisdiction, an action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless the responsible person requests and is granted a stay of an action initiated under this chapter to establish child or medical support, the action shall proceed as otherwise provided by this chapter.

Sec. 23. Section 252C.5, Code 1993, is amended to read as follows:

252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER — ORDER EFFECTIVE AS DISTRICT COURT DECREE.

1. A true copy of any order entered by the administrator pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court ~~in the county in which the dependent child resides or, where the dependent child resides in another state, in the office of the district court in the county in which the absent parent resides~~ in the manner established pursuant to section 252C.4, subsection 1.

~~1~~ 2. The administrator's 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 the force, effect, and attributes of a docketed order or decree of the district court.

~~2~~ 3. Upon filing, the clerk shall enter the order in the judgment docket.

Sec. 24. Section 252D.8, subsection 1, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

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. 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 ~~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 immediate withholding unless one of the following occurs:

Sec. 25. Section 252D.23, Code 1993, is amended to read as follows:

252D.23 FILING OF WITHHOLDING ORDER — ORDER EFFECTIVE AS DISTRICT COURT ORDER.

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. Upon filing, for the purposes of demonstrating compliance by the employer, trustee, or other payor, the withholding order shall have all the force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against an employer, trustee, or other payor for noncompliance. However, any information contained in the income withholding order related to the amount of the accruing or accrued support obligation which does not reflect the correct amount of support due does not modify the underlying support judgment.

Sec. 26. Section 252E.2, Code 1993, is amended by adding the following new subsection and renumbering the subsequent subsection:

NEW SUBSECTION. 2. An insurer who is subject to the federal Omnibus Reconciliation Act of 1993, section 4301, as codified in 42 U.S.C. § 1936g-1, shall provide benefits in accordance with that section which meet the requirements of a qualified medical child support order. For the purposes of this subsection "qualified medical child support order" means a child support order which creates or recognizes the existence of a child's right to, or assigns to a child the right to, receive benefits for which a participant or child is eligible under a group health plan and which specifies the following:

a. The name and the last known mailing address of the participant and the name and mailing address of each child covered by the order.

b. A reasonable description of the type of coverage to be provided by the plan to each child, or the manner in which the type of coverage is to be determined.

c. The period during which the coverage applies.

d. Each plan to which the order applies.

Sec. 27. Section 252E.5, Code 1993, is amended to read as follows:

252E.5 EFFECT OF ORDER ON EMPLOYER.

1. When the order has been forwarded to the obligor's employer pursuant to section 252E.4, the order is binding on the employer and the employer's insurer to the extent that the dependent is eligible to be enrolled in the plan under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer. The employer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions.

2. The employer shall forward a copy of the order to the insurer and request enrollment of the dependent in the health benefit plan. If the obligor fails to apply to obtain coverage for the dependent, the employer shall accept an application to enroll a dependent which has been signed by the obligee or other legal custodian of a child or by the department. Within sixty days of receipt of the order or within sixty days of receipt of application ~~of the obligor pursuant to the order~~, whichever is earlier, the insurer shall determine whether the dependent is eligible for enrollment under the plan and shall notify the employer of the dependent's eligibility status. ~~If eligible, the employer shall withhold any required premium from the obligor's income or wages.~~ If more than one plan is offered by the employer, the dependent shall be enrolled in the health benefit plan in which the obligor is enrolled. However, if more than one plan is offered to the obligor, the plan selected shall provide coverage which is accessible to the dependent.

3. The employer shall withhold from the employee's compensation, the employee's share, if any, of premiums for the health benefit plan in an amount that does not exceed the amount specified in 15 U.S.C. § 1673(b) and which is consistent with federal law. The employer shall forward the amount withheld to the insurer.

4. Within thirty days of receipt of an order that requires an obligor to enroll a dependent in a health benefit plan, the obligor's employer shall provide the following information, as applicable, regarding the enrollment status of the dependent to the obligor, the obligee, or other legal custodian of the child, and the department:

~~1~~ a. That the dependent has been enrolled in a health benefit plan.

~~2. That the dependent will be enrolled in the next enrollment period.~~

~~3~~ b. That the dependent is not eligible for enrollment and the reasons that the dependent is not eligible to be enrolled.

~~4~~ c. That the order has been forwarded to the insurer and a determination of eligibility for enrollment has not been made.

5. If ~~either subsection 1 or 2 describes the enrollment status of~~ the dependent has been enrolled in a health benefit plan, all of the following information shall be provided:

a. The name of the insurer providing the health benefit plan.

b. The dependent's effective date of coverage.

c. The health benefit plan or account number.

d. The type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services. Additionally, the response shall include a brief description of the applicable deductibles, coinsurance, waiting periods for preexisting medical conditions, and other significant terms or conditions which materially affect the coverage.

6. An employer shall not revoke enrollment or eliminate coverage for a dependent unless the employer is provided with satisfactory written evidence that one of the following conditions exists:

a. A court or administrative order requiring coverage in a health benefit plan is no longer in effect.

b. The dependent is eligible for or will be enrolled in a comparable health benefit plan which will take effect no later than the effective date of revocation of enrollment in the other plan.

c. The employer has eliminated dependent health coverage for all employees.

Nothing in this section requires an employer to maintain coverage for the dependent if the premiums are no longer being paid by the obligor because the employer no longer owes compensation to the obligor or because the obligor's employment has been terminated and the obligor has not elected to continue coverage.

PARAGRAPH DIVIDED. If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and the obligor's employment is terminated, the employer shall provide notice to the obligee and the department within ten days of termination of the obligor's employment.

7. If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and the employer's health benefit plan is terminated either in its entirety or with respect to the obligor's insurance classification, or the employer has changed its insurer or become self-insured, the employer shall provide notice to the obligee or other legal custodian of the child and the department ten days prior to the termination ~~of coverage~~ or change in insurer.

8. This chapter does not preclude the exchange of required information between the department and employers or insurers through electronic data transfer.

Sec. 28. Section 252E.7, Code 1993, is amended to read as follows:

252E.7 INSURER AUTHORIZATION.

1. The entry of an order requiring a health benefit plan is authorization for enrollment of the dependent if the dependent is otherwise eligible to be enrolled. ~~If an order has been forwarded to the insurer pursuant to section 252E.5 and is not accompanied by an appropriate application for enrollment of the dependent signed by the obligor, the insurer shall attempt to obtain a signed application from the obligor.~~ If the ~~insurer is unsuccessful in obtaining a signed application from the obligor within thirty days after the insurer's initial request to the~~ obligor fails to obtain coverage for a dependent, the insurer shall accept the signature of the obligee or other legal custodian of the child or of an employee of the department as ~~valid authorization~~ on the application for enrollment of the dependent under the health benefit plan. If the dependent is otherwise eligible to be enrolled in the plan pursuant to the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer, the insurer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions.

2. An insurer shall not deny enrollment of a child under the health benefit plan of the obligor based on any of the following:

a. The child was born out of wedlock.

b. The child is not claimed as a dependent on the obligor's federal income tax form.

c. The child does not reside with the obligor or in the insurer's service area.

2 3. For purposes of processing claims for payment, ~~the insurer shall attempt to obtain the obligor's written authorization to accept the signature of the obligee or an employee of the department on all claim forms submitted to the insurer for medical services provided to the dependent. Upon receipt of such written authorization from the obligor on at least an annual~~

~~basis,~~ the insurer shall accept the signature of the obligee or other legal custodian of the child or of an employee of the department as valid authorization for purposes of processing any medical expense claims on behalf of the dependent for payment or reimbursement of medical services rendered to the dependent.

~~If the insurer is unsuccessful in obtaining such written authorization from the obligor within thirty days after the insurer's initial request to the obligor, the insurer shall accept the signature of the obligee or an employee of the department as valid authorization for purposes of processing any medical expense claims on behalf of the dependent for payment or reimbursement of medical services rendered to the dependent.~~

~~3~~ 4. The insurer shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed for actions taken in implementing this section including, but not limited to, the insurer's release of any information, or the payment of any claims for services by the insurer, or the insurer's acceptance of applications for enrollment of the dependent and medical expense claims for the dependent which are signed by the obligee or an employee of the department pursuant to this section.

~~4. This section does not preclude an insurer from issuing payment directly to the provider if such payment procedure is consistent with the health benefit plan under which the dependent is enrolled, except as provided pursuant to chapter 249A.~~

5. If a dependent has coverage under the health benefit plan of and through the insurer of the obligor, the insurer shall make payment directly to the obligee, the provider, or the department for claims submitted by the obligee, by the provider with the obligee's approval, or by the department.

~~5~~ 6. Payments remitted to the obligor by the insurer for services received by the dependent shall be recoverable by the obligee or the department from the obligor if not properly paid by the obligor to the provider or the obligee.

Sec. 29. Section 252E.8, subsection 1, Code 1993, is amended to read as follows:

1. If an order for coverage under a health benefit plan has been forwarded pursuant to section 252E.5, the obligor's employer or insurer shall release to the obligee or other legal custodian of the child or the department, upon receiving a written request, the information necessary to complete an application, ~~or~~ to file a claim for medical expenses of the dependent, ~~provided the obligor's employer or insurer is given sufficient opportunity to obtain written authorization for the release of such information from the obligor pursuant to this section~~ or to create a qualified medical child support order pursuant to section 252E.2, subsection 2.

Sec. 30. Section 252E.13, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The department may amend information concerning the provisions regarding health benefits in a court or administrative order, if necessary to comply with section 252E.2, subsection 2, if notice of the amendment is provided to the court and to the parties to the order and if the amendment is filed with the clerk of court.

Sec. 31. Section 252F.1, subsection 3, paragraph c, Code Supplement 1993, is amended by striking the paragraph.

Sec. 32. Section 252F.3, Code Supplement 1993, is amended to read as follows:

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 written statement to the unit ~~verifying~~ certifying in accordance with section 622.1 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 or be accompanied by 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 if paternity is established, 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 if paternity is established, 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~~ A written 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~~ may be required to pay, within ten days of the date of service of the original notice or, if paternity is contested and paternity testing is conducted, within ten days of the date ~~of mailing of~~ the paternity test results are issued or mailed to the putative father ~~if the father denies paternity~~ by the unit.

(2) A statement that if a conference is requested, the putative father shall have ~~ten~~ one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) Ten days from the date set for the conference ~~or twenty~~.

(b) Twenty days from the date of service of the original notice~~, or~~.

(c) If paternity was contested and paternity testing was conducted, and the putative father does not deny paternity, after the testing, or challenge the paternity test results, ten days from the date ~~of the mailing of~~ paternity test results are issued or mailed by the unit 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~~ unit shall issue a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, to be provided in person to the putative father or sent to the putative father by regular mail addressed to the putative father's last known address or, if applicable, to the last known address of the putative father's attorney.

(4) A statement that if the ~~administrator~~ unit issues a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, the putative father shall have ~~ten~~ one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) Ten days from the date of issuance of the new notice ~~or twenty~~.

(b) Twenty days from the date of service of the original notice~~, or~~.

(c) If paternity was contested and paternity testing conducted, and the putative father does not deny paternity after the testing or challenge the paternity test results, ten days from the date ~~of~~ the ~~mailing of~~ paternity test results are issued or mailed 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~~ by the unit.

g. A statement that if a conference is not requested, and the putative father does not deny paternity or challenge the results of any paternity testing conducted but objects to the finding of financial responsibility or the amount of child support or medical support, or both, the putative father shall send a written request for a court hearing on the issue of support to the unit within twenty days of the date of service ~~or~~ of the original notice, or, if paternity was contested and paternity testing conducted, and the putative father does not deny paternity, after the testing, or challenge the paternity test results, within ten days from the date ~~of~~ the ~~mailing of~~ paternity test results are issued or mailed to the putative father ~~if the putative father no longer denies paternity,~~ by the unit, whichever is later~~, 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~~ contested, the administrator ~~may~~ shall enter an order ~~in accordance with the notice and finding of financial responsibility for~~ establishing the putative father as the father of the child or children and establishing child support or medical support, or both, in accordance with the notice of alleged paternity and support debt.

i. A ~~statement~~ written explanation of the rights and responsibilities associated with the establishment of paternity.

j. A ~~statement~~ written explanation of the putative father's right to deny paternity, the procedures for denying paternity, and the consequences of the denial.

k. A statement that if the putative father contests paternity, the putative father shall have twenty days from the date of service of the original notice to submit a written denial of paternity to the unit.

l. A statement that if paternity is contested, the unit shall, at the request of the party contesting paternity or on its own initiative, enter an administrative order requiring the putative father, mother, and child or children involved, to submit to paternity testing.

m. A statement that if paternity tests are conducted, the unit shall provide a copy of the test results to the putative father in person or send a copy to the putative father by regular mail, addressed to the putative father's last known address, or, if applicable, to the last known address of the putative father's attorney.

n. A statement setting forth the time frames for contesting paternity after paternity tests are conducted.

o. Other information as the unit finds appropriate.

2. 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.

3. 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 appropriate clerk of the district court ~~in~~ as follows:

a. In the county in which the child or children reside~~, or~~, if the action is for purposes of establishing paternity and future child or medical support, or both.

b. In the county in which the child or children involved last received public assistance benefits in the state, if the action is for purposes of establishing paternity and child or medical support, or both, only for prior periods of time when the child or children received public assistance, and no ongoing child or medical support obligation is to be established by this action.

c. 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.

PARAGRAPH DIVIDED. 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.

4. ~~If the~~ A putative father ~~requests a hearing on the issue of support, and if~~ or the child support recovery unit may request a court hearing regarding establishment of paternity or a determination of support, or both.

a. Upon receipt of 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~~ or on its own initiative, the unit shall certify the matter for hearing in the district court in the county where the original notice of alleged paternity and support debt is filed, in accordance with section 252F.5.

b. If paternity establishment was contested and paternity tests conducted, a court hearing on the issue of paternity shall be scheduled no earlier than fifty days from the date paternity test results are issued to all parties by the unit, unless the parties mutually agree to waive the time frame pursuant to section 255F.8.

c. If a court hearing is scheduled regarding the issue of paternity establishment, any objection to the results of paternity tests shall be filed no later than thirty days before the date the court hearing is originally scheduled. Any objection to paternity test results filed by a party less than thirty days before the date the court hearing is originally scheduled shall not be accepted or considered by the court.

5. If a timely written response and request for a court hearing is not received by the unit and the putative father does not deny paternity, the administrator ~~may~~ shall enter an order in accordance with section 252F.4 ~~on the issue of support~~.

6. a. If ~~the putative father denies~~ a party contests the establishment of paternity, the ~~putative father~~ party shall submit, within twenty days of service of the notice on the putative father under subsection 1, a written ~~denial of~~ statement contesting paternity establishment to the unit. Upon receipt of a written ~~denial~~ challenge of paternity establishment, or upon initiation by the unit, the administrator shall enter ~~an~~ ex parte administrative ~~order~~ orders requiring the mother, child or children involved, and the putative father to submit to paternity testing. Either the mother or putative father may contest paternity under this chapter.

b. The ~~order~~ orders shall be filed with the clerk of the district court in the county where the notice was filed and have the same force and effect as a court order for paternity testing.

~~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. The unit shall issue copies of the respective administrative orders for paternity testing to the mother and putative father in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each.

~~c~~ d. If a paternity test is ~~required~~ ordered 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~~ e. The ~~putative father~~ party contesting paternity 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~~ f. An original copy of the test results shall be ~~sent to~~ filed with the clerk of the district court in the county where the notice was filed, ~~and a copy shall be sent to the administrator and~~. The child support recovery unit shall issue a copy of the filed test results to the putative father and mother of the child or children in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each. However, if the action is the result of a request from a foreign jurisdiction, the unit shall issue a copy of the results to the initiating agency in that foreign jurisdiction.

~~f~~ g. Verified documentation of the chain of custody of the blood or genetic specimens is competent evidence to establish the chain of custody. The testimony of the appointed expert is not required. A verified expert's report of test results which indicate a statistical probability of paternity is sufficient authenticity of the expert's conclusion.

h. A verified expert's report shall be admitted as evidence to establish administrative paternity, and, if a court hearing is scheduled to resolve the issue of paternity, shall be admitted as evidence and is admissible at trial.

~~g~~ i. If the verified 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~~

(1) In order to challenge the presumption of paternity, ~~the putative father~~ a party 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~~ from the date the paternity test results are issued or mailed to all parties by the unit, or ~~within ten~~ if a court hearing is scheduled to resolve the issue of paternity, no later than thirty days ~~after~~ before the scheduled date of the ~~conference~~ court hearing, whichever occurs later. Any subsequent rescheduling or continuances of the originally scheduled hearing shall not extend the initial time frame. Any challenge to a presumption of paternity resulting from paternity tests, or to paternity test results filed after the initial time frame shall not be accepted or admissible by the unit or the court.

(2) A copy of the notice challenging the presumption of paternity shall be provided to any other party in person, or by mailing the notice to the last known address of each party, or if applicable, to the last known address of each party's attorney.

~~(1)~~ (3) The party challenging the presumption of paternity has the burden of proving that the putative father is not the father of the child.

~~(2)~~ (4) The presumption of paternity may be rebutted only by clear and convincing evidence.

~~i~~ j. If the verified 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~~ the administrator ~~may then~~ shall order a ~~second~~ subsequent administrative paternity test or certify the case to the district court for resolution in accordance with the procedures and time frames specified in paragraph "i" and section 252F.5.

k. If the results of the test or the verified expert's analysis are timely challenged as provided in this subsection, 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 or shall certify the case to the district court in accordance with paragraph "i" and section 252F.5.

l. When a subsequent paternity test is conducted, the time frames in this chapter associated with paternity tests shall apply to the most recently completed test.

m. If the paternity test results exclude the putative father as a potential biological father of the child or children, and additional tests are not requested by either party or conducted on the unit's initiative, or if additional tests exclude the putative father as a potential biological father, 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, and shall provide a copy of the notice to the putative father in person, or by regular mail sent to the putative father's last known address, or if applicable, the last known address of the putative father's attorney.

n. If paternity is established and paternity testing was conducted, the unit shall enter an order or, if the action proceeded to a court hearing, request that the court enter a judgment for the costs of the paternity tests consistent with applicable federal law.

~~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. 33. Section 252F.4, subsections 1, 2, 3, 4, 6, and 7, Code Supplement 1993, are amended to read as follows:

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~~ a conference pursuant to section 252F.3 on the scheduled date of the conference, and paternity has not been contested and the putative father fails to timely request a court hearing on the issue of support, the administrator ~~may~~ shall enter an order against the putative father, declaring the putative father to be the ~~biological~~ legal father of the child or children involved and assessing ~~the support obligation~~

~~and~~ any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E, against the father.

2. If paternity is contested pursuant to section 252F.3, subsection 6, and the ~~putative father~~ party contesting paternity 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 and the putative father fails to timely request a court hearing on the issue of support, the administrator ~~may~~ shall enter an order against the putative father declaring the putative father to be the ~~biological~~ legal father of the child or children involved and assessing ~~the support obligation and~~ any accrued and accruing child support obligation 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 pursuant to section 252F.3, and paternity is not contested, and the putative father fails to timely request a court hearing on the issue of support, the administrator ~~may~~ shall enter an order against the putative father ~~ten days~~ after the second notice has been sent declaring the putative father to be the ~~biological~~ legal father of the child or children involved and assessing ~~the support obligation and~~ any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E against the father.

4. If paternity was contested and paternity testing was performed and the putative father was not excluded, if the test results indicate that the probability of the putative father's paternity is ninety-five percent or greater, ~~and the putative father fails to timely challenge paternity testing~~, if the test results are not timely challenged, and if the putative father fails to timely request a court hearing on the issue of support, the administrator ~~may~~ shall enter an order against the putative father declaring the putative father to be the ~~biological~~ legal father of the child or children involved and assessing ~~the support obligation and~~ any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E, against the father.

6. 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.

h. A statement that the father is required to inform the child support recovery unit, on a continuing basis, of the name and address of the father's current employer, whether the father has access to health insurance coverage through employment or at reasonable cost through other sources, and if so, the health insurance policy information.

i. If paternity was contested, the amount of any judgment assessed to the father for costs of paternity tests conducted pursuant to this chapter.

7. If ~~the putative father does not deny~~ paternity is not contested but the putative father does wish to challenge the issues of child or medical support, the administrator ~~may~~ shall enter an order establishing paternity and reserving the issues of child or medical support for determination by the district court.

Sec. 34. Section 252F.5, subsections 2, 3, 6, and 7, Code Supplement 1993, are amended to read as follows:

2. An action under this chapter may be certified to the district court if a party ~~challenges the administrator's finding of~~ timely contests paternity~~, or the amount of~~ establishment or paternity test results, or if the putative father requests a court hearing on the issues of child or medical support, or both, or upon the initiation of the unit as provided in this chapter. 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~~ issued to ~~the putative father~~ all parties.

c. A timely written objection to ~~the entry of an order~~ paternity establishment or paternity test results has been received from a party, or a timely written request for a court hearing on the issue of support has been received from the putative father by the unit, or the unit has requested a court hearing on the unit's own initiative.

d. At least fifty days have expired since the test results have been issued to the parties by the unit or the time frame has been waived pursuant to section 252F.8.

6. If the court determines that the putative father is the ~~biological~~ legal 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~~ the putative father or another party contesting paternity fails to appear at the hearing, upon a showing that proper notice has been provided to the party, the court ~~may~~ shall find the party in default and enter an appropriate order establishing paternity and support.

Sec. 35. Section 252F.8, Code Supplement 1993, is amended to read as follows:

252F.8 WAIVER OF TIME LIMITATIONS ~~BY PUTATIVE FATHER~~.

1. A putative father or other party may waive the time limitations established in this chapter.

2. ~~Upon~~ If a party does not contest paternity or wish to request a conference or court hearing on the issue of support, upon receipt of a signed statement from the putative father and any other party that may contest establishment of paternity, waiving the time limitations, the administrator ~~may~~ shall enter an order establishing paternity and support and the court may approve the order, notwithstanding the expiration of the period of the time limitations if paternity is established.

3. If a putative father or other party waives the time limitations and an order establishing paternity ~~and~~ or determining support, or both, is entered under this chapter, the signed statement of the putative father and other party waiving the time limitations shall be filed with the order ~~for support~~.

Sec. 36. Section 252G.1, Code Supplement 1993, is amended to read as follows:

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.

2. "Contractor" means a natural person who is ~~an independent contractor, including an independent trucking owner or operator~~ eighteen years of age or older, who performs labor in this state to whom a payor of income makes payments which are not subject to withholding and for whom the payor of income is required by the internal revenue service to complete a 1099-MISC form.

~~3~~ 2. "Date of hire" means ~~the earlier of~~ either of the following:

a. The first day for which ~~the~~ an employee ~~or contractor~~ is owed compensation by the payor of income.

b. The first day that ~~an employee or~~ a contractor ~~reports to work or~~ performs labor or services for the payor of income.

~~4~~ 3. "Days" means calendar days.

~~5~~ 4. "Department" means the department of human services.

~~6~~ 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.

~~7~~ 6. "Employee" means a natural person who performs labor in this state and 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.

~~8~~ 7. "Employer" means a person doing business in ~~the~~ this state who engages an employee for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation.

8. "Natural person" means an individual and not a corporation, government, business trust, estate, partnership, proprietorship, or other legal entity, however organized.

~~9~~ 10. "Payor of income" includes both an employer and a person ~~doing~~ engaged in a trade or business in ~~the~~ this state who engages a contractor for compensation.

~~10~~ 11. "Registry" means the central employee registry created in section 252G.2.

~~11~~ 12. "Rehire" means the ~~earlier of either of the following:~~

~~a.~~ ~~The~~ first day for which ~~the~~ an employee ~~or contractor~~ is owed compensation by the payor of income following ~~an unpaid absence of~~ a termination of employment lasting a minimum of six consecutive weeks. Termination of employment does not include temporary separations from employment such as unpaid medical leave, an unpaid leave of absence, or a temporary layoff.

~~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.~~

~~12~~ 13. "Unit" means the child support recovery unit created in section 252B.2.

Sec. 37. Section 252G.3, subsection 1, Code Supplement 1993, is amended to read as follows:

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~~ the hiring or rehiring of the employee to the centralized employee registry within ~~ten~~ fifteen days of the hiring or rehiring of ~~an~~ the employee. Employers shall report employees who, on the date of hire or rehire, are eighteen years of age or older, and may report employees who, on the date of hire or rehire, are under eighteen years of age. Only employees who are reasonably expected to earn at least one dollar in compensation for any day on which the employee works shall be reported. The report submitted shall contain all of the following:

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~~ whether the employer has employee dependent health care coverage available and ~~whether or not~~ the appropriate date on which the employee ~~is qualified~~ may qualify 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.~~ The address to which income withholding orders and garnishments should be sent.

Sec. 38. Section 252G.4, Code Supplement 1993, is amended to read as follows:

252G.4 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 on or after January 1, 1994,~~ enters into an agreement for the performance of services with a contractor, shall report ~~all of the following~~ the contractor to the registry. Payors of income shall report contractors performing labor under an agreement within ~~ten~~ fifteen days of ~~hiring or rehiring of a contractor~~ the date on which all of the following conditions are met:

a. The payor issues payment to the contractor in an amount which exceeds the amount required for the filing of a 1099-MISC report.

b. Payment to the contractor under an agreement is made in a form which is other than a lump sum payment, within a calendar year.

The payor of income is not required to file more than one report for any contractor.

2. The report submitted to the registry shall contain all of the following:

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. 39. Section 421.17, subsection 21A, paragraphs c and d, Code Supplement 1993, are amended to read as follows:

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. For purposes of crediting the support payments pursuant to sections 252B.14 and 598.22, payments received by the department of revenue and finance and forwarded to the collection services center shall be credited as if received directly by the collection services center.

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~~ filing requirement when payments are made pursuant to the repayment plan or to contest the balance due listed in the notice ~~when payments are made pursuant to the plan~~.

Sec. 40. Section 598.21, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. If, during an action initiated under this chapter or any other chapter in which a child or medical support obligation may be established based upon a prior determination of paternity, a party wishes to contest the paternity of the child or children involved, all of the following apply:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or a court or administrative order entered in this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41A apply.

(2) If following the proceedings under section 600B.41A the court determines that the prior determination of paternity should not be overcome, and that the established father has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to subsection 4, or the medical support obligation pursuant to chapter 252E, or both.

b. If a determination of paternity is based on an administrative or court order or other means pursuant to the laws of a foreign jurisdiction, any action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless a stay of the action initiated in this state to establish child or medical support is requested and granted by the court, pending a resolution of the contested paternity issue by the foreign jurisdiction, the action shall proceed.

c. Notwithstanding paragraph "a", a prior determination of paternity by operation of law through the marriage of the established father and mother of the child may be overcome under this chapter if the established father and mother of the child submit a statement that both parties agree that the established father is not the biological father of the child and the court finds that it is in the best interest of the child to overcome the established paternity. In determining the best interest of the child, the court shall consider the criteria provided in section 600B.41A, subsection 3, paragraph "g".

Sec. 41. Section 598.21, subsection 8, paragraph k, Code Supplement 1993, is amended by striking the paragraph.

Sec. 42. Section 598.21, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4B. If an action to overcome paternity is brought pursuant to subsection 4A, paragraph "c", the court shall appoint a guardian ad litem for the child for the pendency of the proceedings.

Sec. 43. Section 600B.9, Code 1993, is amended to read as follows:

600B.9 TIME OF INSTITUTING PROCEEDINGS.

The proceedings may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of ~~the person charged with being the father~~ all parties, the trial shall not be ~~had~~ held until after the birth of the child and shall be held no earlier than twenty days from the date the alleged father is served with notice of the action or, if blood or genetic tests are conducted, no earlier than fifty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

Sec. 44. Section 600B.24, Code 1993, is amended to read as follows:

600B.24 JUDGMENT IN GENERAL.

1. If the defendant, after being served with notice as required under section 600B.15, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the defendant in default and enter a default judgment.

2. ~~If the findings~~ Upon a finding or verdict ~~be~~ of paternity against the defendant, the court shall ~~give~~ enter a judgment against ~~him~~ the defendant declaring paternity and ~~for~~ ordering support of the child.

Sec. 45. Section 600B.41, subsections 3, 5, and 6, Code Supplement 1993, are amended to read as follows:

3. Verified documentation of the chain of custody of the blood or genetic specimen is competent evidence to establish the chain of custody. The testimony of the court-appointed expert at trial is not required.

5. The results of the tests shall have the following effects:

a. Test results which show a statistical probability of paternity are admissible. To challenge the test results, a party shall file a notice of the challenge, with the court, within twenty days of the filing of the expert's report with the clerk of the district court, or, if a court hearing is scheduled to resolve the issue of paternity, no later than thirty days before the original court hearing date.

(1) Any subsequent rescheduling or continuances of the originally scheduled hearing shall not extend the original time frame.

(2) Any challenge filed after the time frame is not acceptable or admissible by the court.

(3) If a challenge is not timely filed, the test results shall be admitted as evidence of paternity without the need of additional proof of authenticity or accuracy.

b. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the alleged father is the father, and this evidence must be admitted.

(1) To challenge this presumption of paternity, a party must file a notice of the challenge with the court within ~~twenty days of the filing of the expert's report with the clerk of the district court~~ the time frames prescribed in paragraph "a".

(2) The party challenging the presumption of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child.

(3) The presumption of paternity can be rebutted only by clear and convincing evidence.

c. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of the alleged father's paternity. To challenge the test results, a party must file a notice of the challenge with the court within ~~twenty days of the filing of the expert's report with the clerk of the district court~~ the time frames prescribed in paragraph "a".

6. If the results of the tests or the expert's analysis of inherited characteristics is disputed in a timely fashion, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing. When a subsequent test is conducted, all time frames prescribed in this chapter associated with blood or genetic tests shall apply to the most recently completed test.

Sec. 46. Section 600B.41, subsection 7, Code Supplement 1993, is amended by striking the subsection.

Sec. 47. Section 600B.41, subsection 8, Code Supplement 1993, is amended to read as follows:

8. All costs shall be paid by the parties or parents in proportions and at times determined by the court, except as otherwise provided pursuant to section 600B.41A.

Sec. 48. NEW SECTION. 600B.41A ACTIONS TO OVERCOME PATERNITY — APPLICABILITY — CONDITIONS.

1. Paternity which is legally established may be overcome as provided in this section if subsequent blood or genetic testing indicates that the previously established father of a child is not the biological father of the child. Unless otherwise provided in this section, this section applies to the overcoming of paternity which has been established according to any of the means provided in section 252A.3, subsection 9, by operation of law when the established father and the mother of the child are or were married to each other, or as determined by a court of this state under any other applicable chapter.

2. This section does not apply to any of the following:

a. A paternity determination made in or by a foreign jurisdiction and, notwithstanding section 252A.20, a paternity determination which has been made in or by a foreign jurisdiction and registered in this state in accordance with section 252A.18.

b. A paternity determination based upon a court or administrative order if the order was entered based upon blood or genetic test results which demonstrate that the alleged father was not excluded and that the probability of the alleged father's paternity was ninety-five percent or higher, unless the tests were conducted prior to July 1, 1992.

3. Establishment of paternity may be overcome under this section if all of the following conditions are met:

a. The action to overcome paternity is filed with the court prior to the child reaching majority.

(1) A petition to overcome paternity may be filed only by the mother of the child, the established father of the child, the child, or the legal representative of any of these parties.

(2) If paternity was established by court or administrative order, a petition to overcome paternity shall be filed in the county in which the order is filed.

(3) In all other determinations of paternity, a petition to overcome paternity shall be filed in an appropriate county in accordance with the rules of civil procedure.

b. The petition contains, at a minimum, all of the following:

(1) The legal name, age, and domicile, if any, of the child.

(2) The names, residences, and domicile of the following:

(a) Living parents of the child.
(b) Guardian of the child.
(c) Custodian of the child.
(d) Guardian ad litem of the child.
(e) Petitioner.
(f) Person standing in the place of the parents of the child.

(3) A plain statement that the petitioner believes that the established father is not the biological father of the child, any reasons for this belief, and that the petitioner wishes to have the paternity determination set aside.

(4) A plain statement explaining why the petitioner does not know any of the information required under subparagraphs (1) and (2).

c. Notice of the action to overcome paternity is served on any parent of the child not initiating the action and any assignee of the support obligation, in accordance with the rules of civil procedure and in accordance with the following:

(1) If enforcement services are being provided by the child support recovery unit pursuant to chapter 252B, notice shall also be served on the child support recovery unit.

(2) The responding party shall have twenty days from the date of the service of the notice to file a written response with the court.

d. A guardian ad litem is appointed for the child.

e. Blood or genetic testing is conducted in accordance with section 600B.41 or chapter 252F.

(1) Unless otherwise specified pursuant to subsection 2 or 8, blood or genetic testing shall be conducted in all cases prior to the determination by the court of the best interest of the child in an action to overcome the establishment of paternity.

(2) Unless otherwise specified in this section, section 600B.41 applies to blood or genetic tests conducted as the result of an action brought to overcome paternity.

(3) The court may order additional testing to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

f. The court finds that the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

g. The court finds that it is in the best interest of the child to overcome the establishment of paternity. In determining the best interest of the child, the court shall consider all of the following:

(1) The age of the child.

(2) The length of time since the establishment of paternity.

(3) The previous relationship between the child and the established father, including but not limited to the duration and frequency of any time periods during which the child and established father resided in the same household or engaged in a parent-child relationship as defined in section 600A.2.

(4) The possibility that the child could benefit by establishing the child's actual paternity.

(5) Additional factors which the court determines are relevant to the individual situation.

4. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed, the established father is relieved of all future support obligations owed on behalf of the child.

a. The effective date of termination of any future support obligation is the date on which an order determining that the established father is not the biological father is filed with the court.

b. Any periodic support payment, due prior to the date the order determining that the established father is not the biological father is filed, is unaffected by this action and remains a judgment subject to enforcement.

5. An action brought under this section shall be heard and decided by the court, and shall not be subject to a jury trial.

6. If the court determines that test results conducted in accordance with section 600B.41 or chapter 252F exclude the established father as the biological father, but the court dismisses the action to overcome paternity, the court may enter an order relieving the established father of any or all future support obligations owed on behalf of the child, while preserving the paternity determination. The court's determination and the effective date of the determination shall be in accordance with subsection 4, paragraphs "a" and "b", and shall be made based upon the unique circumstances of each case and the interests of all parties.

7. The costs of testing, the fee of the guardian ad litem, and all court costs shall be paid by the person bringing the action to overcome paternity.

8. This section shall not be construed as a basis for termination of an adoption decree or for discharging the obligation of an adoptive father to an adoptive child pursuant to section 600B.5.

9. Unless specifically addressed in an order entered pursuant to this section, provisions previously established by the court order regarding custody or visitation of the child are unaffected by an action brought under this section.

10. Participation of the child support recovery unit created in section 252B.2 in an action brought under this section shall be limited as follows:

a. The unit shall only participate in actions if services are being provided by the unit pursuant to chapter 252B.

b. When services are being provided by the unit under chapter 252B, the unit may enter an administrative order for blood and genetic tests pursuant to chapter 252F.

c. The unit is not responsible for or required to provide for or assist in obtaining blood or genetic tests in any case in which services are not being provided by the unit.

d. The unit is not responsible for the costs of blood or genetic testing conducted pursuant to an action brought under this section.

e. Pursuant to section 252B.7, subsection 4, an attorney employed by the unit represents the state in any action under this section. The unit's attorney is not the legal representative of the mother, the established father, or the child in any action brought under this section.

Sec. 49. Section 602.6111, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The requirements of subsection 1 do not apply to actions filed by the child support recovery unit established pursuant to chapter 252B. For actions filed by the child support recovery unit, the clerk of the district court shall generate an alternative personal identification number if the party's social security number or driver's license number is not provided or available through other sources.

Sec. 50. Section 627.13, Code 1993, is amended to read as follows:

627.13 WORKERS' COMPENSATION.

Any compensation due or that may become due an employee or dependent under chapter 85 is exempt from garnishment, attachment, execution, and assignment of income, except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, ~~the~~ an assignment of income, garnishment or attachment of or the execution against compensation due an employee ~~or dependent~~ under chapter 85 is not exempt but shall be limited as specified in 15 U.S.C. § 1673(b).

Sec. 51. Section 669.2, subsection 4, Code Supplement 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Employee of the state" also includes an individual performing unpaid community service under an order of the district court pursuant to section 598.23A.

Sec. 52. EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.

1. Section 252D.23 as amended by this Act, relating to income withholding orders, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

2. Section 602.6111 as amended by this Act, relating to use of alternative personal identification numbers on documents filed with the clerk of the district court, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1993.

3. Section 252D.8, subsection 1, unnumbered paragraph 1, as amended by this Act, relating to immediate income withholding, and sections 252G.1, 252G.3, subsection 1, and 252G.4, as amended by this Act, relating to the central employee registry, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1994.

4. Section 85.59, unnumbered paragraph 2, as amended by this Act, relating to community service for obligors found in contempt of court, section 252B.20, subsection 1, paragraph "b", as amended by this Act, relating to recipients of public assistance, section 252B.21, subsection 1, as amended by this Act, relating to notice for seek employment orders, and section 669.2, subsection 4, as amended by this Act, relating to liability for persons performing community service, being deemed of immediate importance, take effect upon enactment.

5. Sections 40, 41 and 46 through 48 of this Act, being deemed of immediate importance, take effect upon enactment.

6. Sections 40, 41 and 46 through 48 of this Act apply to any action to overcome paternity, including any paternity determination made prior to the effective date of sections 40, 41 and 46 through 48 of this Act.

Approved May 11, 1994

CHAPTER 1172

JUVENILE JUSTICE

S.F. 2319

AN ACT relating to juvenile justice by establishing or enhancing penalties for delinquent acts which may be committed by juveniles, establishing or enhancing penalties for public offenses relating to juvenile justice, authorizing searches of student lockers in a school without advance notice under certain circumstances, delaying the repeal of the interception of communications law, providing for the commitment of persons determined to be sexually violent predators, and making related appropriations and providing effective dates.

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

Section 1. Section 80B.11, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Within the existing curriculum, expand training regarding racial and cultural awareness and dealing with gang-affected youth.

Sec. 2. Section 123.47, Code 1993, is amended to read as follows:

123.47 PERSONS UNDER THE AGE OF EIGHTEEN.

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and a person or persons under the age of eighteen shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian, or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the person upon demand, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal

purposes and except to the extent that a person under the age of eighteen may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter. A person, other than a licensee or permittee, who violates this section regarding the purchase or attempt to purchase of alcoholic liquor, wine, or beer shall pay a twenty-five dollar penalty.

Sec. 3. Section 123.47A, Code 1993, is amended to read as follows:

123.47A PERSONS AGE EIGHTEEN, NINETEEN, AND TWENTY — PENALTY.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that the person is age eighteen, nineteen, or twenty. A person age eighteen, nineteen, or twenty shall not purchase or possess alcoholic liquor, wine, or beer. However, a person age eighteen, nineteen, or twenty may possess alcoholic liquor, wine, or beer given to the person within a private home with the knowledge, presence, and consent of the person's parent or guardian, or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the person upon demand, and a person age eighteen, nineteen, or twenty may handle alcoholic liquor, wine, and beer during the course of the person's employment by a liquor control licensee, or wine or beer permittee. A person, other than a licensee or permittee, who commits a first offense under this section commits a scheduled violation of section 805.8, subsection 10. A person, other than a licensee or permittee, who commits a second or subsequent violation of this section, commits a simple misdemeanor. A licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is guilty of a simple misdemeanor punishable by a fine of not more than fifty dollars. The penalty provided under this section against a licensee or permittee who violates this section with respect to a person who is age nineteen or twenty is the only penalty which shall be imposed against a licensee or permittee who violates this section. A licensee or permittee who violates this section with respect to a person who is age eighteen commits a simple misdemeanor, and is subject to the criminal and civil penalties provided pursuant to sections 123.49 and 123.50 with respect to selling, giving, or otherwise supplying alcoholic beverages, liquor, wine, or beer to persons under legal age.

2. For the purpose of determining if a violation charged is a second or subsequent offense, a conviction or plea of guilty to a violation of this section shall be counted as a previous offense.

Sec. 4. Section 123.49, subsection 2, paragraph h, Code 1993, is amended to read as follows:

h. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or ~~having reasonable cause to believe the person to be~~ failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or ~~having reasonable cause to believe the person to be~~ failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer.

Sec. 5. Section 123.50, subsection 1, Code Supplement 1993, is amended to read as follows:

1. Any person who violates any of the provisions of section 123.49, except subsection 2, paragraph "h", shall be guilty of a simple misdemeanor. A person who violates section 123.49, subsection 2, paragraph "h", commits a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 10, paragraph "b".

Sec. 6. Section 124.401A, Code 1993, is amended to read as follows:

124.401A ENHANCED PENALTY FOR DISTRIBUTION TO PERSONS ON CERTAIN REAL PROPERTY.

In addition to any other penalties provided in this chapter, a person who is eighteen years of age or older who unlawfully distributes or possesses with intent to distribute a substance or counterfeit substance listed in schedule I, ~~or~~ II ~~which is a narcotic or cocaine~~, or III, or a simulated controlled substance represented to be a ~~narcotic or cocaine~~ controlled substance classified in schedule I, ~~or~~ II, or III, to another person who is eighteen years of age or older in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public

swimming pool, public recreation center, or on a marked school bus, may, at the judge's discretion, be sentenced up to an additional term of confinement of five years.

Sec. 7. NEW SECTION. 124.401B POSSESSION OF CONTROLLED SUBSTANCES ON CERTAIN REAL PROPERTY — ADDITIONAL PENALTY.

In addition to any other penalties provided in this chapter or another chapter, a person who unlawfully possesses a substance listed in schedule I, II, or III, or a simulated controlled substance represented to be a controlled substance classified in schedule I, II, or III, in or on, or within one thousand feet of the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, may be sentenced to one hundred hours of community service work for a public agency or a nonprofit charitable organization. The court shall provide the offender with a written statement of the terms and monitoring provisions of the community service.

Sec. 8. Section 124.406, subsection 1, paragraphs a and b, Code 1993, are amended to read as follows:

a. Unlawfully distributes or possesses with intent to distribute a substance listed in schedule I or II, ~~which~~ is a ~~narcotic or cocaine,~~ to a person under eighteen years of age commits a class "B" felony and shall serve a minimum term of confinement of five years. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with the intent to distribute a controlled substance ~~other than a narcotic or cocaine~~ listed in schedule ~~I, II, or~~ III to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

Sec. 9. Section 124.406, subsection 2, paragraphs a and b, Code 1993, are amended to read as follows:

a. Unlawfully distributes or possesses with the intent to distribute a counterfeit substance listed in schedule I or II ~~which is a narcotic or cocaine~~, or a simulated controlled substance represented to be a ~~narcotic or cocaine~~ substance classified in schedule I or II, to a person under eighteen years of age commits a class "B" felony. However, if the substance was distributed in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park, public swimming pool, public recreation center, or on a marked school bus, the person shall serve a minimum term of confinement of ten years.

b. Unlawfully distributes or possesses with intent to distribute a counterfeit substance ~~other than a narcotic or cocaine~~ listed in schedule ~~I, II, or~~ III, or a simulated controlled substance represented to be any substance listed in schedule ~~I, II, or~~ III, to a person under eighteen years of age who is at least three years younger than the violator commits a class "C" felony.

Sec. 10. NEW SECTION. 124.406A USE OF PERSONS UNDER AGE EIGHTEEN IN THE DRUG TRADE.

It is unlawful for a person who is eighteen years of age or older to conspire with or recruit a person under the age of eighteen for the purpose of delivering or manufacturing a controlled substance classified in schedule I through IV. A person violating this section commits a class "C" felony.

Sec. 11. Section 124.415, Code 1993, is amended to read as follows:

124.415 PARENTAL AND SCHOOL NOTIFICATION — PERSONS UNDER EIGHTEEN YEARS OF AGE.

A peace officer shall make a reasonable effort to identify a person under the age of eighteen discovered to be in possession of a controlled substance, counterfeit substance, or simulated controlled substance in violation of this chapter, and if the person is not referred to juvenile

court the law enforcement agency of which the peace officer is an employee shall make a reasonable attempt to notify the person's custodial parent or legal guardian of such possession, whether or not the person is arrested, unless the officer has reasonable grounds to believe that such notification is not in the best interests of the person or will endanger that person. If the person is taken into custody, the peace officer shall make a reasonable effort to identify the elementary or secondary school the person attends, if any, and to notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A juvenile court officer may also notify the superintendent of the school district, the superintendent's designee, or the authorities in charge of the nonpublic school of the taking into custody. A reasonable attempt to notify the person includes but is not limited to a telephone call or notice by first class mail.

Sec. 12. Section 232.2, subsection 22, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Unless otherwise enlarged or circumscribed by a court or juvenile court having jurisdiction over the child or by operation of law, the duties of a guardian ad litem with respect to a child shall include the following:

a. Conducting in-person interviews with the child and each parent, guardian, or other person having custody of the child.

b. Visiting the home, residence, or both home and residence of the child and any prospective home or residence of the child.

c. Interviewing any person providing medical, social, educational, or other services to the child.

d. Obtaining first-hand knowledge, if possible, of the facts, circumstances, and parties involved in the matter in which the person is appointed guardian ad litem.

e. Attending any hearings in the matter in which the person is appointed as the guardian ad litem.

Sec. 13. Section 232.19, subsection 2, Code 1993, is amended to read as follows:

2. When a child is taken into custody as provided in subsection 1 the person taking the child into custody shall notify the child's parent, guardian or custodian as soon as possible and shall not place bodily restraints, such as handcuffs, on the child unless the child physically resists or threatens physical violence when being taken into custody. However, if the child is thirteen years of age or older, the child may be restrained by metal handcuffs only, for the purpose of transportation in a vehicle which is not equipped with a rear seat cage for prisoner transport and if the child is being taken into custody for an alleged delinquent act of violence against a person. The child may also be restrained by handcuffs or other restraints at any time after the child is taken into custody if the child has a known history of physical violence to others. Unless the child is placed in shelter care or detention in accordance with the provisions of section 232.21 or 232.22, the child shall be released to the child's parent, guardian, custodian, responsible adult relative, or other adult approved by the court upon the promise of such person to produce the child in court at such time as the court may direct.

Sec. 14. Section 232.29, subsection 2, Code 1993, is amended to read as follows:

2. An informal adjustment agreement may prohibit a child from driving a motor vehicle for a specified period of time or under specific circumstances, require the child to perform a work assignment of value to the state or to the public, or require the child to make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The juvenile court officer shall notify the state department of transportation of the informal adjustment prohibiting the child from driving.

Sec. 15. Section 232.42, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Proceedings may be continued for up to one year upon the request of the county attorney and the child to permit the making of probation arrangements prior

to the adjudicatory hearing. If either the child or the county attorney requests that the adjudicatory hearing be held at any time during the period of the continuance, the court shall set the matter for hearing.

Sec. 16. Section 232.44, subsection 1, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If the child is placed in a detention facility in a county other than the county in which the child resides or in which the delinquent act allegedly occurred but which is within the same judicial district, the hearing may take place in the county in which the detention facility is located. The child shall appear in person at the hearing required by this subsection.

Sec. 17. Section 232.44, subsection 7, Code 1993, is amended to read as follows:

7. If a child held in shelter care or detention by court order has not been released after a detention hearing or has not appeared at an adjudicatory hearing before the expiration of the order of detention, an additional hearing shall automatically be scheduled for the next court day following the expiration of the order. The child, the child's counsel, the child's guardian ad litem, and the child's parent, guardian or custodian shall be notified of this hearing not less than twenty-four hours before the hearing is scheduled to take place. The hearing required by this section may be held by telephone conference call.

Sec. 18. Section 232.45A, subsections 2 and 3, Code 1993, are amended to read as follows:

2. Once a child sixteen years of age or older has been waived to and convicted of a ~~forcible~~ felony ~~or a felony violation of section 124.401 or chapter 707~~ by the district court, all criminal proceedings against the child for any ~~forcible~~ felony ~~or a felony violation of section 124.401 or chapter 707~~ occurring subsequent to the date of the conviction of the child shall begin in district court, notwithstanding sections 232.8 and 232.45. A copy of the findings required by section 232.45, subsection 8, shall be made a part of the record in the district court proceedings.

3. If proceedings against a child for a ~~forcible~~ felony ~~or a felony violation of section 124.401 or chapter 707~~ who has previously been waived to and convicted of such an offense by the district court are mistakenly begun in the juvenile court, the matter shall be transferred to district court upon the discovery of the prior waiver and conviction, notwithstanding sections 232.8 and 232.45.

Sec. 19. Section 232.46, subsection 1, Code 1993, is amended to read as follows:

1. At any time after the filing of a petition and prior to entry of an order of adjudication pursuant to section 232.47, the court may suspend the proceedings on motion of the county attorney or the child's counsel, enter a consent decree, and continue the case under terms and conditions established by the court. These terms and conditions may include prohibiting a child from driving a motor vehicle for a specified period of time or under specific circumstances, or the supervision of the child by a juvenile court officer or other agency or person designated by the court, and may include the requirement that the child perform a work assignment of value to the state or to the public or make restitution consisting of a monetary payment to the victim or a work assignment directly of value to the victim. The court shall notify the state department of transportation of an order prohibiting the child from driving.

Sec. 20. Section 232.47, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12. A juvenile court officer shall notify the superintendent of the school district or the superintendent's designee, or the authorities in charge of the nonpublic school which the child attends of the child's adjudication for a delinquent act which would be an indictable offense if committed by an adult.

Sec. 21. Section 232.52, subsection 2, paragraph a, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) The suspension of the motor vehicle license or operating privilege of the child for the commission of one or more delinquent acts which are a violation

of section 123.46, section 123.47 regarding the purchase or attempt to purchase of alcoholic beverages, or chapter 124, or two or more delinquent acts which are a violation of section 123.47 regarding the possession of alcoholic beverages for a period of one year. The child may be issued a temporary restricted license or school license if the child is otherwise eligible.

Sec. 22. Section 232.52, subsection 2, paragraph c, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A parent or guardian may be required by the juvenile court to participate in educational or treatment programs as part of a probation plan if the court determines it to be in the best interest of the child. A parent or guardian who does not participate in the probation plan when required to do so by the court may be held in contempt.

Sec. 23. Section 232.78, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The juvenile court may enter an ex parte order directing a peace officer or a juvenile court officer to take custody of a child before or after the filing of a petition under this chapter provided all of the following apply:

Sec. 24. Section 232.79, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A peace officer or juvenile court officer may take a child into custody, ~~or~~ a physician treating a child may keep the child in custody, or a juvenile court officer may authorize a peace officer, physician, or medical security personnel to take a child into custody, without a court order as required under section 232.78 and without the consent of a parent, guardian, or custodian provided that both of the following apply:

Sec. 25. Section 232.148, Code 1993, is amended to read as follows:

232.148 FINGERPRINTS — PHOTOGRAPHS.

1. Except as provided in this section, a child shall not be fingerprinted or photographed by a criminal justice agency after the child is taken into custody.

2. Fingerprints and photographs of a child who has been taken into custody and who is fourteen years of age or older may be taken and filed by a criminal justice agency investigating the commission of a public offense ~~constituting a felony~~ other than a simple or serious misdemeanor. ~~However, fingerprint and photograph files of a child who enters into an informal adjustment or consent decree shall be retained only if the child is notified at the time of entering into the informal adjustment or consent decree that the files will be permanently retained by the criminal justice agency.~~ The criminal justice agency shall forward the fingerprints to the department of public safety for inclusion in the automated fingerprint identification system. However, unless otherwise authorized pursuant to section 232.45A or 690.4, or as otherwise authorized by law, a criminal history record shall not be created for inclusion in an automated system due to the retention of fingerprints pursuant to this section.

3. If a peace officer has reasonable grounds to believe that latent fingerprints found during the investigation of the commission of a public offense are those of a particular child, fingerprints of the child may be taken for immediate comparison with the latent fingerprints regardless of the nature of the offense. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive ~~and the child is referred to the court~~, the fingerprint card and other copies of the fingerprints taken shall be delivered to the ~~court for disposition~~ division of criminal investigation of the department of public safety in the manner and on the forms prescribed by the commissioner of public safety within two working days after the fingerprints are taken. ~~If the child is not referred to the court~~ After notification by the child or the child's representative that the child has not had a delinquency petition filed against the child or has not entered into an informal adjustment agreement, the fingerprint card and copies of the fingerprints shall be immediately destroyed.

~~4. Fingerprint and photograph files of children shall be kept separate from those of adults. Copies of fingerprints and photographs of a child shall not be placed in any data storage system established and maintained by the department of public safety pursuant to chapter 692, or in any federal depository for fingerprints.~~

~~5~~ 4. Fingerprint and photograph files of children may be inspected by peace officers when necessary for the discharge of their official duties. The juvenile court may authorize other inspections of such files in individual cases upon a showing that inspection is necessary in the public interest.

~~6~~ 5. Fingerprints and photographs of a child shall be removed from the file and destroyed ~~if~~ upon notification by the child's guardian ad litem or legal counsel to the department of public safety that any of the following situations apply:

a. A petition alleging the child to be delinquent is not filed and the child has not entered into an informal adjustment, admitting involvement in a delinquent act alleged in the complaint.

b. After a petition is filed, the petition is dismissed or the proceedings are suspended and the child has not entered into a consent decree and has not been adjudicated delinquent on the basis of a delinquent act other than one alleged in the petition in question.

c. Upon petition by the child when the child reaches twenty-one years of age and the child has not been adjudicated a delinquent nor convicted of committing an aggravated misdemeanor or a felony after reaching sixteen years of age.

Sec. 26. Section 232.149, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. Information regarding a child taken into custody for a violation of chapter 124 involving the possession of a controlled substance, counterfeit substance, or simulated controlled substance shall be disclosed in accordance with section 124.415.

Sec. 27. NEW SECTION. 232.190 COMMUNITY GRANT FUND.

1. A community grant fund is established in the state treasury under the control of the division of criminal and juvenile justice planning of the department of human rights for the purposes of awarding grants under this section. The criminal and juvenile justice planning advisory council and the juvenile justice advisory council shall assist the division in administering grants awarded under this section. The department of human services shall advise the division on programs which meet the criteria established for grant recipients. Not more than one percent of the moneys appropriated to the fund shall be used for administrative purposes.

2. A city, county, or entity organized under chapter 28E may apply to the department for a grant on a matching basis to fund juvenile crime prevention programs. The match may come from funds provided to the city, county, or entity organized under chapter 28E from private sources, other state programs, or federal programs. A city, county, or entity organized under chapter 28E applying for a grant under this section is encouraged to seek matching funds from, but not limited to, the Iowa finance authority, the governor's alliance on substance abuse, and under the state and federal community reinvestment Acts. Applications shall state specific outcomes sought to be obtained under a program funded by a grant under this section.

3. Programs awarded moneys from the community grant fund shall involve a collaborative effort by all children and family support service providers to provide services and shall reflect a community-wide consensus in how to remediate community problems and may include programs dealing with truancy which involve school district and community partnerships, and programs involving judicial district community-based corrections programs. Services provided under the programs shall be comprehensive and utilize flexible delivery systems. The department of human services shall establish a point system for determining eligibility for grants from the fund based upon the nature and breadth of the community juvenile crime prevention programs and the extent to which a community has sought to obtain additional public and private funding sources for all or parts of the community's program.

4. This section is repealed effective June 30, 1998. The division of criminal and juvenile justice planning and the department of human services shall submit a report to the general assembly by January 15, 1998, regarding the effectiveness of the programs funded under this section in meeting the objectives contained in subsection 3.

Sec. 28. NEW SECTION. 232.191 EARLY INTERVENTION AND FOLLOW-UP PROGRAMS.

Contingent on a specific appropriation for these purposes, the department shall do the following:

1. Develop or expand programs providing specific life skills and interpersonal skills training for adjudicated delinquent youth who pose a low or moderate risk to the community.

2. Develop or expand a school-based program addressing truancy and school behavioral problems for youth ages twelve through seventeen.

3. Develop or expand an intensive tracking and supervision program for adjudicated delinquent youth at risk for placement who have been released from resident facilities, which shall include telephonic or electronic tracking and monitoring and intervention by juvenile authorities.

4. Develop or expand supervised community treatment for adjudicated delinquent youth who experience significant problems and who constitute a moderate community risk.

Sec. 29. NEW SECTION. 280.9B VIOLENCE PREVENTION CURRICULUM.

The department of education shall develop a statewide violence prevention program based on law-related education. The department shall contract with a law-related education agency that serves the state and provides a comprehensive plan to develop violence prevention curricula for grades K through twelve, provide training to teachers and school administrators on violence prevention, and develop school-community partnerships for violence prevention.

Sec. 30. Section 280.19A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If a district has not adopted a plan as required in this section and implemented the plan by January 15, 1996, the area education agency serving the district shall assist the district with developing a plan and an alternative options education program for the pupil. When a plan is developed, the district shall be responsible for the operation of the program and shall reimburse the area education agency for the actual costs incurred by the area education agency under this section.

Sec. 31. Section 294A.14, unnumbered paragraphs 9 and 10, Code Supplement 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, 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, participation in family support programs, development of programs which provide instruction in conflict resolution and mediation techniques for staff and students, development of anger management instructional programs for students, and other plans locally determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the school district.

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, development of staff development programs which provide instruction in conflict resolution and mediation techniques, assisting school district teachers in the development of anger management instructional programs for students, and other plans determined in the manner specified in section 294A.15 and approved by the department of education under section 294A.16 that are of equal importance or more appropriately meet the educational needs of the area education agency.

Sec. 32. NEW SECTION. 299.1B FAILURE TO ATTEND — LOSS OF DRIVER'S LICENSE.

A person who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, adult education classes, or who is not employed at least twenty hours per week shall not receive a motor vehicle operator's license until age eighteen. A person under age eighteen who has been issued a motor vehicle operator's license who does not attend a public school, an accredited nonpublic school, competent private instruction in accordance with the provisions of chapter 299A, an alternative school, or adult education classes, shall surrender the license and be issued a temporary restricted license under section 321.215.

Sec. 33. Section 299.5A, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The mediator may refer a truant to the juvenile court if mediation breaks down without an agreement being reached.

Sec. 34. NEW SECTION. 321.213A LICENSE SUSPENSION FOR JUVENILES ADJUDICATED DELINQUENT FOR CERTAIN DRUG OR ALCOHOL OFFENSES.

Upon the entering of an order at the conclusion of a dispositional hearing under section 232.50, where the child has been adjudicated to have committed a delinquent act, which would be a first or subsequent violation of section 123.46, section 123.47 involving the purchase or attempt to purchase alcoholic beverages, or chapter 124, or a second or subsequent violation of section 123.47 regarding the possession of alcoholic beverages, the clerk of the juvenile court in the dispositional hearing shall forward a copy of the adjudication and dispositional order to the department. The department shall suspend the license or operating privilege of the child for one year. The child may receive a temporary restricted license as provided in section 321.215.

Sec. 35. NEW SECTION. 321.213B REVOCATION FOR FAILURE TO ATTEND.

The department shall establish procedures by rule for revoking the license of a juvenile who is in violation of section 299.1B or issuing the juvenile a temporary restricted license under section 321.215 if the juvenile is employed at least twenty hours per week.

Sec. 36. Section 321A.17, subsection 5, Code Supplement 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 321.210, subsection 1, paragraph "d", or section 321.210A, 321.213B, 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. 37. Section 453A.2, Code 1993, is amended to read as follows:

453A.2 PERSONS UNDER LEGAL AGE.

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen years of age ~~and a~~.

2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, or cigarettes.

2 3. The Iowa department of public health, a county health department, a city health department, or a city may directly enforce this section in district court and initiate proceedings pursuant to section 453A.22 before a permit-issuing authority against a permit holder violating this section.

3 4. Payment and distribution of court costs, fees, and fines in a prosecution initiated by a city or county shall be made as provided in chapter 602 for violation of a city or county ordinance.

Sec. 38. Section 453A.3, Code 1993, is amended to read as follows:

453A.3 PENALTY.

A person who violates section 453A.2, subsection 1 or 453A.39 is guilty of a simple misdemeanor.

A person who violates section 453A.2, subsection 2, shall pay a civil penalty pursuant to section 805.8, subsection 11. Failure to pay the civil penalty imposed for a violation of section 453A.2, subsection 2, is a simple misdemeanor punishable as a scheduled violation under section 805.8, subsection 11.

Sec. 39. Section 602.7103, subsection 3, Code 1993, is amended to read as follows:

3. The parties to a ~~termination of parental rights~~ proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, in the manner of an appeal from orders, findings, or decisions of district court judges. ~~The parties to any other proceeding heard by an associate juvenile judge are entitled to appeal the order, finding, or decision of an associate juvenile judge, to the district court.~~ An appeal does not automatically stay the order, finding, or decision of an associate juvenile judge.

Sec. 40. Section 613.16, subsection 2, Code 1993, is amended to read as follows:

2. The legal obligation of the parent or parents of an unemancipated minor child under the age of eighteen years to pay damages shall be limited as follows:

a. Not more than ~~one~~ two thousand dollars for any one act.

b. Not more than ~~two~~ five thousand dollars, payable to the same claimant, for two or more acts.

Sec. 41. Section 702.18, Code 1993, is amended to read as follows:

702.18 SERIOUS INJURY.

"Serious injury" means disabling mental illness, or bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ, and includes but is not limited to skull fractures, rib fractures, and metaphyseal fractures of the long bones of children under the age of four years.

Sec. 42. Section 707.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. The person kills a child while committing child endangerment under section 726.6, subsection 1, paragraph "b", or while committing assault under section 708.1 upon the child, and the death occurs under circumstances manifesting an extreme indifference to human life.

Sec. 43. NEW SECTION. 709C.1 SEXUALLY VIOLENT PREDATOR ACT.

This chapter shall be known as the "Sexually Violent Predator Act".

Sec. 44. NEW SECTION. 709C.2 DEFINITIONS.

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

1. "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

2. "Predatory" means acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

3. "Sexually violent offense" means an act which is at least one of the following:

a. A public offense under section 709.2, 709.3, 709.4, 709.8, 709.11, 709.12, or 709.14.

b. Murder in the first degree or second degree under section 707.2 or 707.3, assault under section 708.1, domestic abuse assault under section 708.2A, kidnapping in the first degree or in the second degree under section 710.2 or 710.3, burglary or attempted burglary in the first degree under section 713.3 or 713.4, which is determined beyond a reasonable doubt at the time of sentencing or during civil commitment proceedings subsequent to the offense to have been sexually motivated.

c. A felony offense under federal law or the law of another state which is equivalent to one of the offenses listed in paragraph "a" or "b".

d. A violation of chapter 705 or 706 regarding an offense listed in paragraph "a", "b", or "c".

4. "Sexually violent predator" means a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

Sec. 45. NEW SECTION. 709C.3 SEXUALLY VIOLENT PREDATOR PETITION.

1. The county attorney or the attorney general at the request of the county attorney, may file a petition alleging that a person is a sexually violent predator. The petition shall state sufficient facts to support the allegation.

2. A petition may be filed in the following circumstances:

a. The person has been convicted of, pled guilty to, or been adjudicated delinquent for committing a sexually violent offense.

b. The person has been found not guilty of a sexually violent offense by reason of insanity, or has been found incompetent to stand trial for allegedly committing a sexually violent offense.

c. The person is within ninety days of release from a facility to which the person was committed pursuant to the determination made in either paragraph "a" or "b".

Sec. 46. NEW SECTION. 709C.4 JUDICIAL DETERMINATION — TRANSFER FOR EVALUATION.

Upon the filing of a petition under section 709C.3, if the court determines that probable cause exists to believe that the person named in the petition is a sexually violent predator the court shall transfer a person to an appropriate facility for evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct the examination pursuant to rules adopted by the department of corrections in consultation with the department of human services and the criminal and juvenile justice planning division of the department of human rights.

Sec. 47. NEW SECTION. 709C.5 TRIAL — RIGHTS OF PARTIES.

Not later than forty-five days after the filing of a petition pursuant to section 709C.3, the court shall conduct a trial to determine whether the person is a sexually violent predator. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist the person. If a person is subjected to an examination under this chapter, the person may retain experts or professional persons to perform an examination on the person's behalf. The person may be examined by a qualified expert or professional person of the person's choosing, and the expert or professional shall have reasonable access to the person for the purpose of the examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. The person, the county attorney or the attorney general, or the judge shall have the right to demand that the trial be before a jury, if the person is an adult or a juvenile who has been waived to the district court. If no demand is made, or if the person is a juvenile who has not been waived to the district court, the trial shall be to the court or the juvenile court as applicable.

Sec. 48. NEW SECTION. 709C.6 TRIAL – DETERMINATION – COMMITMENT PROCEDURES.

1. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated, the state shall prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of human services in a secure facility for control, care, and treatment until such time as the person's mental abnormality of* personality disorder has so changed that the person is safe to be at large. This control, care, and treatment shall be provided at a facility operated by the department of human services, however, adults and juveniles shall not be sent to the same facility. If the court or jury does not find beyond a reasonable doubt that the person is a sexually violent predator, the court shall order the person to be released in accordance with the terms of the person's sentence.

2. If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to or has been released and the person's commitment is sought pursuant to subsection 1, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal due to incompetence that the person committed the act or acts charged. The hearing on this issue shall comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on the person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on the issue, the court finds beyond a reasonable doubt that the person did commit the act charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

Sec. 49. NEW SECTION. 709C.7 ANNUAL EXAMINATIONS.

Each person committed under this chapter shall have a current examination of the person's mental condition made at least once every year. The person may retain, or if the person is indigent and so requests, the court may appoint, a qualified expert or a professional person to examine the person, and the expert or professional person shall have access to all records concerning the person. The periodic report shall be provided to the court that committed the person under this chapter.

Sec. 50. NEW SECTION. 709C.8 PETITION FOR RELEASE – PROCEDURES.

1. If the director of the department of human services determines that the person's mental abnormality or personality disorder has so changed that the person is not likely to engage in predatory acts of sexual violence if released, the director shall authorize the person to petition the court for release. The petition shall be served upon the court and the county attorney. The court, upon receipt of the petition for release, shall order a hearing on the petition to be held not later than forty-five days after the date of service of the petition. The county attorney or the attorney general, if requested by the county attorney, shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the county attorney's or attorney general's choice. The hearing shall be before a jury if demanded by either the petitioner or the state's counsel. The burden of proof shall be upon the county attorney or attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if discharged is likely to engage in predatory acts of sexual violence.

*The word "or" probably intended

2. Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge without the approval of the director of the department of human services. The director shall provide the committed person with an annual written notice of the person's right to petition the court for release over the director's objection. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that the person is safe to be at large. The committed person shall have a right to have an attorney represent the person at the show cause hearing but the person is not entitled to be present at the show cause hearing. If the court at the show cause hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and is not likely to engage in predatory acts of sexual violence if discharged, the court shall set a hearing on the issue. At the hearing the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The county attorney or attorney general shall represent the state and shall have a right to request a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate the person on the person's behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if released is likely to engage in predatory acts of sexual violence.

Sec. 51. NEW SECTION. 709C.9 SUBSEQUENT PETITIONS.

Nothing in this chapter shall prohibit a person from filing a petition for discharge pursuant to this chapter. However, if a person has previously filed a petition for discharge without the approval of the director of the department of human services and the court has determined, either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the petitioner was safe to be at large, the court shall deny the subsequent petition unless the petition contains facts upon which a court could find that the condition of the petitioner has so changed that a hearing is warranted. Upon receipt of a first or subsequent petition from a committed person without the director's approval, the court shall review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

Sec. 52. NEW SECTION. 709C.10 RELEASE OF INFORMATION AUTHORIZED.

Notwithstanding any other provision to the contrary, the director of the department of human services is authorized to release relevant information that is necessary to protect the public, concerning a specific sexually violent predator committed under this chapter.

Sec. 53. NEW SECTION. 724.4A WEAPONS FREE ZONES — ENHANCED PENALTIES.

1. As used in this section, "weapons free zone" means the area in or on, or within one thousand feet of, the real property comprising a public or private elementary or secondary school, or in or on the real property comprising a public park. A weapons free zone shall not include that portion of a public park designated as a hunting area under section 461A.42.

2. Notwithstanding sections 902.9 and 903.1, a person who commits a public offense involving a firearm or offensive weapon, within a weapons free zone, in violation of this or any other chapter shall be subject to a fine of twice the maximum amount which may otherwise be imposed for the public offense.

Sec. 54. Section 724.16, subsection 1, Code 1993, is amended to read as follows:

1. Except as otherwise provided in section 724.15, subsection 2, a person who acquires ownership of a pistol or revolver without a valid annual permit to acquire pistols or revolvers or

a person who transfers ownership of a pistol or revolver to a person who does not have in the person's possession a valid annual permit to acquire pistols or revolvers is guilty of ~~a simple~~ an aggravated misdemeanor.

Sec. 55. NEW SECTION. 724.16A TRAFFICKING IN STOLEN WEAPONS.

A person who knowingly transfers or acquires possession, or who facilitates the transfer, of a stolen firearm commits a class "D" felony for a first offense and a class "C" felony for second and subsequent offenses or if the weapon is used in the commission of a public offense. However, this section shall not apply to a person purchasing stolen firearms through a buy-back program sponsored by a law enforcement agency if the firearms are returned to their rightful owners or destroyed.

Sec. 56. Section 724.22, subsections 1 and 2, Code 1993, are amended to read as follows:

1. Except as provided in subsection 3, a person who sells, loans, gives, or makes available a rifle or shotgun or ammunition for a rifle or shotgun to a minor commits a ~~simple~~ serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

2. Except as provided in subsections 4 and 5, a person who sells, loans, gives, or makes available a pistol or revolver or ammunition for a pistol or revolver to a person below the age of twenty-one commits a ~~simple~~ serious misdemeanor for a first offense and a class "D" felony for second and subsequent offenses.

Sec. 57. Section 724.27, Code 1993, is amended to read as follows:

724.27 ~~EXCEPTION TO SECTIONS 724.8, SUBSECTION 2, 724.15, SUBSECTION 1, AND 724.26~~ OFFENDERS' RIGHTS RESTORED.

The provisions of sections 724.8, subsection 2, 724.15, subsection 1, paragraphs "b" and "e", and 724.26 shall not apply to a person who is eligible to have the person's civil rights regarding firearms restored under section 914.7 and who is pardoned or has had the person's civil rights restored by the President of the United States or the chief executive of a state and who is expressly authorized by the President of the United States or such chief executive to receive, transport, or possess firearms or destructive devices.

Sec. 58. NEW SECTION. 724.30 RECKLESS USE OF A FIREARM.

A person who intentionally discharges a firearm in a reckless manner commits the following:

1. A class "C" felony if a serious injury occurs.

2. A class "D" felony if a bodily injury which is not a serious injury occurs.

3. An aggravated misdemeanor if property damage occurs without a serious injury or bodily injury occurring.

4. A simple misdemeanor if no injury to a person or damage to property occurs.

Sec. 59. NEW SECTION. 726.6B MULTIPLE ACTS OF CHILD ENDANGERMENT — PENALTY.

A person who engages in a course of conduct including three or more acts of child endangerment as defined in section 726.6 within a period of twelve months involving the same child or a mentally or physically handicapped minor, where one or more of the acts results in serious injury to the child or minor or results in a skeletal injury to a child under the age of four years, is guilty of a class "B" felony. Notwithstanding section 902.9, subsection 1, a person convicted of a violation of this section shall be confined for no more than fifty years.

Sec. 60. Section 805.8, subsection 10, Code Supplement 1993, is amended to read as follows:

10. ALCOHOLIC BEVERAGE VIOLATIONS.

a. For violations of section 123.47A, which constitute first offenses as provided in that section, the scheduled fine is fifteen dollars.

b. For violations of section 123.49, subsection 2, paragraph "h", the scheduled fine is one hundred dollars.

Sec. 61. Section 805.8, subsection 11, Code Supplement 1993, is amended to read as follows:

11. SMOKING VIOLATIONS. For violations of section 142B.6 or 453A.2, subsection 2, the scheduled fine is twenty-five dollars, and is a civil penalty, and the criminal penalty surcharge under section 911.2 shall not be added to the penalty, and the court costs pursuant to section 805.9, subsection 6, shall not be imposed. If the civil ~~fine~~ penalty assessed for a violation of section 142B.6 is not paid in a timely manner, a citation shall be issued for the violation in the manner provided in section 804.1. However, a person under age eighteen shall not be detained in a secure facility for failure to pay the civil penalty. The complainant shall not be charged a filing fee.

For failing to pay the civil penalty under section 453A.2, the scheduled fine is twenty-five dollars. Failure to pay the scheduled fine shall not result in the person being detained in a secure facility. The complainant shall not be charged a filing fee.

Sec. 62. Section 808A.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. If a search pursuant to subsection 1 of a school locker, desk, or other facility or space issued or assigned to, or chosen by a student, reveals a violation of the law or the rules of the school regarding a dangerous weapon or controlled substance, the violation shall constitute reasonable grounds for future searches without advance notice to the student of the student's school locker, desk, or other facility or space issued or assigned to, or chosen by the student.

Sec. 63. Section 808B.9, Code 1993, is amended to read as follows:

808B.9 REPEAL.

This chapter is repealed effective July 1, ~~1994~~ 1999.

Sec. 64. Section 914.7, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of this chapter, a person seventeen years of age or younger who commits a public offense involving a firearm which is an aggravated misdemeanor against a person or a felony shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

Sec. 65. JUVENILE DETENTION HOMES — ADDITIONAL APPROPRIATION. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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 additional reimbursement of counties for juvenile detention homes in accordance with the provisions of this section, and in order to effectuate the purposes of this Act pertaining to the detention of children who habitually and substantially violate the conditions of probation:

..... $ 362,500

If the funds designated in this section, in addition to any other appropriation to the department of human services for reimbursement of counties for juvenile detention homes in the fiscal year beginning July 1, 1994, 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 and in any other provision appropriating moneys to the department for reimbursement of counties for juvenile detention homes in the same fiscal year.

Sec. 66. APPROPRIATION — TRANSFER. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, $362,500 shall be appropriated from the general fund to the governor's alliance on substance abuse to provide one-time grants to community-based correctional programs for replication of the youthful offender program established in Polk county. The governor's alliance on substance abuse may provide a one-time grant of up to $100,000 to each

eligible community-based correctional program, which applies for a grant for a proposal for replication of the youthful offender program to the governor's alliance on substance abuse by September 1, 1994. The governor's alliance on substance abuse shall submit a report to the general assembly regarding the distribution of these funds by January 15, 1995.

Sec. 67. APPROPRIATION – TRUANCY AND SCHOOL BEHAVIORAL PROBLEMS. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For school-based programs addressing truancy and school behavorial problems pursuant to section 232.191, subsection 2, as enacted in this Act:

..... $ 200,000

Sec. 68. APPROPRIATION – VIOLENCE PREVENTION CURRICULUM. 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 is necessary, to be used for the following purpose:

For implementation of a statewide violence prevention program pursuant to section 280.9B, as enacted in this Act:

..... $ 75,000

Sec. 69. APPROPRIATION – HIGHLY STRUCTURED JUVENILE PROGRAMS. The department of human services and the division of criminal and juvenile justice planning of the department of human rights shall develop two 25-bed highly structured treatment-oriented programs for youths who are adjudicated delinquent, one of which shall be at an existing facility. The programs shall include a resident phase and follow-up services. Each program shall include goals for the functioning of youths following completion of the resident portion of the program, follow-up tracking, and evaluation activities during the resident and follow-up phases. At least one program shall include in its resident phase a regimen stressing discipline and physical activities. The department shall develop criteria for the resident phase and for admission to the program and for providing follow-up services to a child who successfully completes the resident phase. Follow-up services shall be community-based and designed to assist the child to live without supervision after the provision of follow-up services ends.

Funding for the program to be started at a new facility shall be provided from the appropriation to the department of human services for child and family services by the Seventy-fifth General Assembly, 1994 Session. This funding shall be contingent on the receipt of medical assistance funding for program participants.

Sec. 70. APPROPRIATION. There is appropriated from the general fund of the state in the community grant fund for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount or so much thereof as is necessary, to be used for the purposes of the community grant fund established in this Act:

..... $ 1,800,000

Sec. 71. APPROPRIATION. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For salaries, support, and maintenance, for the following additional juvenile court officers, and for not more than the following full-time equivalent positions:

..... $ 190,000
..... FTEs 6.00

The judicial department shall determine the location at which the additional juvenile court officers are to be placed.

Sec. 72. TRUANCY JUVENILE COURT OFFICERS. Contingent on a specific appropriation being made for this purpose, the judicial department shall add one additional juvenile court officer per judicial district for the purpose of handling truancy cases referred to the juvenile court under section 299.5A, as amended in this Act.

Sec. 73. STUDY. The division of criminal and juvenile justice planning of the department of human rights shall study and compare rates of recidivism and rehabilitation for similar offenses in juveniles adjudicated delinquent versus juveniles waived to and convicted of an offense in the district court and the frequency and severity of sanctions imposed upon juveniles by the juvenile court versus those imposed by the district court for juveniles waived to the district court for similar offenses. The division shall report the results of its study to the general assembly by January 15, 1995.

Sec. 74. EFFECTIVE DATES. Sections 43 through 52 take effect July 1, 1995. Section 63 of this Act takes effect June 30, 1994.

Approved May 12, 1994

CHAPTER 1173

REVISIONS OF STATE MANDATES AND RELATED MATTERS

H.F. 642

AN ACT relating to revisions of mandates and goals to political subdivisions of the state by striking certain duties of cities, counties, and county auditors for civil actions, abandoned islands, and public contracts, by providing for the funding of state mandates, the department of public health for health professional licensing, and other matters related to the state, by removing a reporting requirement by county auditors for foreclosures of permanent school fund mortgages, by providing for the recovery of compensation for an advocate for an involuntarily committed mental patient, by making the appointment of a county weed commissioner optional, by increasing the dollar limit before county contract letting procedures are required, by striking leave requirements for public employees for olympic competition, by striking a requirement for lobby space in courthouses for certain veterans, by reducing bridge and culvert cost records kept by the state, by providing for the designation of certain county officers to act on behalf of the principal officers, by striking property tax exemptions for certain veterans, by amending procedures for setting speed limits on secondary roads, by striking provisions relating to personal property taxes, by authorizing an early change in full-time or part-time status of a county attorney by agreement, by striking requirements for county attorneys to represent school districts, by striking the requirements for county dog licensing, by striking assessment provisions for ice and coal dealers, and by making provisions for other properly related matters.

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

Section 1. Section 1.15, Code 1993, is amended to read as follows:

1.15 ATTORNEY APPOINTED BY STATE IN CIVIL ACTIONS.

In all civil causes of action where the state of Iowa or any of its subdivisions or departments is a party, and a member of the Sac and Fox Indian settlement is a party, the district court of Iowa shall appoint competent legal counsel at all stages of hearing, appeal, and final determination for any Indian not otherwise represented by legal counsel, in any domestic relations matter, including, but not limited to, matters pertaining to dependency, neglect, delinquency, care, or custody of minors. The court shall fix and allow reasonable compensation for the

services of the attorney, costs of transcripts and depositions, and investigative expense, which shall be paid as a claim ~~by the office of county auditor of the county where the action is commenced, and the county shall be paid for all sums so paid~~ out of any funds in the state treasury not otherwise appropriated, upon filing the claim with the director of revenue and finance.

Sec. 2. Section 25B.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If, on or after the effective date of this Act, a state mandate is enacted by the general assembly, or otherwise imposed, on a political subdivision and the state mandate requires a political subdivision to engage in any new activity, to provide any new service, or to provide any service beyond that required by any law enacted prior to the effective date of this Act, and the state does not appropriate moneys to fully fund the cost of the state mandate, the political subdivision is not required to perform the activity or provide the service and the political subdivision shall not be subject to the imposition of any fines or penalties for the failure to comply with the state mandate unless the legislation specifies the amount or proportion of the cost of the state mandate which the state shall pay annually. However, this subsection does not apply to any requirement imposed on a political subdivision relating to public employee retirement systems under chapters 97B, 410, and 411.

For the purposes of this subsection, any requirement originating from the federal government and administered, implemented, or enacted by the state, or any allocation of federal moneys conditioned upon enactment of a state law or rule, is not a state mandate.

For the purposes of this subsection, "political subdivision" includes community colleges and area education agencies.

Sec. 3. Section 25B.3, subsection 2, Code 1993, is amended to read as follows:

2. "State mandate" means a statutory requirement or appropriation which requires a political subdivision of the state to establish, expand, or modify its activities in a manner which necessitates additional combined annual expenditures of local revenue by all affected political subdivisions of at least one hundred thousand dollars, or additional combined expenditures of local revenue by all affected political subdivisions within five years of enactment of five hundred thousand dollars or more, excluding an order issued by a court of this state.

Sec. 4. Section 25B.6, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A state agency or department shall not propose or adopt an administrative rule which exceeds its statutory authority by mandating expenditures by political subdivisions, or agencies and entities which contract with political subdivisions to provide services. A state administrative rule, proposed pursuant to chapter 17A, which necessitates additional combined annual expenditures exceeding one hundred thousand dollars by all affected political subdivisions or agencies and entities which contract with ~~a~~ the affected political ~~subdivision~~ subdivisions to provide services shall be accompanied by a fiscal ~~note~~ impact statement outlining the costs. ~~The~~ An affected political subdivision, or an entity representing ~~the~~ an affected political subdivision, shall cooperate in the preparation of the fiscal ~~note~~ impact statement. The fiscal ~~note~~ impact statement shall be submitted to the administrative rules coordinator for publication in the Iowa administrative bulletin along with the notice of intended action.

Sec. 5. Section 72.5, subsection 1, unnumbered paragraph 1, and subsection 3, Code 1993, are amended to read as follows:

A contract for a public improvement or construction of a public building, including new construction or renovation of an existing public building, by the state, or an agency ~~or political subdivision~~ of the state, shall not be let without satisfying the following requirements:

3. The department of management shall develop a proposal for submission to the general assembly on or before January 10, 1991, to create a division within the department of management to evaluate life cycle costs on design proposals submitted on public improvement and construction contracts for agencies ~~and political subdivisions~~ of the state, to assure uniform comparisons and professional evaluations of design proposals by an independent agency. The report shall also address potential redundancy and conflicts within existing state law regarding life cycle cost analysis and recommend the resolution of any problems which are identified.

Sec. 6. Section 99A.4, Code 1993, is amended to read as follows:

99A.4 DUTIES OF PEACE OFFICERS.

Every sheriff, deputy sheriff, constable, marshal, policeman, police officer, and peace officer shall ~~observe and inspect licensed premises and ascertain whether gambling devices are present thereon and~~ immediately report the finding ~~thereof~~ of gambling devices at licensed premises to the authority or authorities issuing the license or licenses applicable to the premises in question.

Sec. 7. Section 99A.7, Code 1993, is amended to read as follows:

99A.7 ~~COUNTY~~ ATTORNEY GENERAL — DUTY.

The ~~county attorney for the county in which the hearing is held shall, and the~~ attorney general ~~may,~~ shall attend the hearing, interrogate the witnesses, and advise the issuing authority. The ~~county attorney shall, and the~~ attorney general ~~may,~~ shall also appear for the issuing authority in any certiorari proceeding taken pursuant to ~~the provisions of~~ section 99A.6.

Sec. 8. Section 147.92, Code 1993, is amended to read as follows:

147.92 ATTORNEY GENERAL ~~AND COUNTY ATTORNEY~~.

Upon request of the department the attorney general shall institute in the name of the state the proper proceedings against any person charged by the department with violating any provision of this or the following chapters of this subtitle, excluding chapters 152B and 152C, ~~and the county attorney, at the request of the attorney general, shall appear and prosecute such action when brought in the county attorney's county~~.

Sec. 9. Section 216D.2, subsection 2, Code 1993, is amended to read as follows:

2. "Food service" includes restaurant, cafeteria, snack bar, vending machines for food and beverages, and goods and services customarily offered in connection with any of these. ~~It does not include goods and services offered by a veteran's newsstand under section 331.361, subsection 4.~~

Sec. 10. Section 229.19, unnumbered paragraph 3, Code Supplement 1993, is amended to read as follows:

The court or, if the advocate is appointed by the county board of supervisors, the board shall 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 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. 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. If the patient or the person who is legally liable for the patient's support is not indigent, the board shall recover the costs of compensating the advocate from that person. If that 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 advocate's compensation shall be recovered in accordance with rules adopted by the state public defender. If that 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 advocate's compensation shall be recovered in accordance with rules adopted by the state public defender.

Sec. 11. Section 257B.39, Code 1993, is amended to read as follows:

257B.39 REPORT AS TO SALES — INTEREST.

County auditors shall report, on or before January 1 of each year, to the director of revenue and finance the amount of the sales and resales made during the previous year, of the sixteenth section, five-hundred-thousand-acre grant, and escheat estates, ~~and lands taken under foreclosure of permanent school fund mortgages,~~ and the director of revenue and finance shall charge them to the counties with interest from the date of ~~such~~ the sale or resale to January 1, at the rate of three percent per annum.

Sec. 12. Section 257B.42, Code 1993, is amended to read as follows:

257B.42 REPORT AS TO RENTS.

By January 1 of each year, county auditors shall report to the director of revenue and finance the amount of rents collected during the preceding year on unsold school lands ~~and lands taken under foreclosure of permanent school fund mortgages then in the hands of the county treasurer,~~ and the director shall include the amount reported in the semiannual apportionment of interest.

Sec. 13. Section 309.82, Code 1993, is amended to read as follows:

309.82 RECORD OF FINAL COST.

On completion of a bridge or culvert, a detailed statement of cost, and of additions or alterations to the plans shall be filed by the engineer, all of which shall be retained in the county engineer's office as permanent records~~, and when the work is completed and approved, a statement of the costs shall be filed with the department by the county engineer~~.

Sec. 14. Section 317.3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

The board of supervisors of each county ~~shall~~ may annually appoint a county weed commissioner who may be a person otherwise employed by the county and who passes minimum standards established by the department of agriculture and land stewardship for noxious weed identification and the recognized methods for noxious weed control and elimination. The county weed commissioner's appointment shall be effective as of March 1 and shall continue for a term at the discretion of the board of supervisors unless the commissioner is removed from office as provided for by law. The county weed commissioner may, with the approval of the board of supervisors, require that commercial applicators and their appropriate employees pass the same standards for noxious weed identification as established by the department of agriculture and land stewardship. The name and address of the person appointed as county weed commissioner shall be certified to the county auditor and to the secretary of agriculture within ten days of the appointment. The board of supervisors shall fix the compensation of the county weed commissioner and deputies. In addition to compensation, the commissioner and deputies shall be paid their necessary travel expenses. At the discretion of the board of supervisors, the weed commissioner shall attend a seminar or school conducted or approved by the ~~state~~ department of agriculture and land stewardship relating to the identification, control, and elimination of noxious weeds.

Sec. 15. Section 321.285, subsection 5, Code Supplement 1993, is amended to read as follows:

5. Reasonable and proper, but not greater than fifty-five miles per hour at any time between sunrise and sunset, and not greater than fifty miles per hour at any time between sunset and sunrise, on secondary roads unless such roads are surfaced with concrete or asphalt or a combination of both, in which case the speed limits shall be the same as provided in subsection 4 of this section. ~~Whenever~~ When the board of supervisors of any county shall determine upon the basis of an engineering and traffic investigation ~~conducted by the department when so requested by said board~~ that the speed limit on any secondary road is greater than is reasonable and proper under the conditions found to exist at any intersection or other place or upon any part of a secondary road, ~~said~~ the board shall determine and declare a reasonable and proper speed limit ~~thereat~~ at the intersection or other part of the secondary road. ~~Such~~ The speed limits as determined by the board of supervisors shall be effective when appropriate signs giving notice ~~thereof~~ of the speed limits are erected by the board of supervisors at ~~such~~ the intersection or other place or part of the highway.

Sec. 16. Section 331.321, subsection 1, paragraph v, Code Supplement 1993, is amended by striking the paragraph.

Sec. 17. Section 331.324, subsection 1, paragraph b, Code 1993, is amended to read as follows:

b. Grant claims for mileage and expenses of officers and employees in accordance with sections 70A.9 to 70A.13 and section 331.215, subsection 2~~, and grant employees leaves of absence to participate in olympic competition in accordance with section 70A.24~~.

Sec. 18. Section 331.341, subsection 1, Code 1993, is amended to read as follows:

1. When the estimated cost of a public improvement, other than improvements which may be paid for from the secondary road fund, exceeds ~~twenty-five thousand dollars~~ the amount specified in section 309.40, the board shall follow the contract letting procedures provided for cities in sections 384.95 to 384.103. However, in following those sections the board shall substitute the word "county" for the word "city", section 331.305 for section 362.3, shall consider "governing body" to mean the board, and shall exclude references to a city utility, utility board of trustees, or public utilities. As used in this section, "public improvement" means the same as defined in section 384.95 as modified by this subsection.

Sec. 19. Section 331.361, subsection 4, Code 1993, is amended by striking the subsection.

Sec. 20. Section 331.381, subsection 14, Code Supplement 1993, is amended to read as follows:

14. Provide for the ~~licensure,~~ seizure, impoundment, and disposition of dogs in accordance with chapter 351.

Sec. 21. Section 331.502, subsection 3, Code Supplement 1993, is amended by striking the subsection.

Sec. 22. Section 331.502, subsection 14, Code Supplement 1993, is amended by striking the subsection.

Sec. 23. Section 331.507, subsection 3, paragraphs b and c, Code 1993, are amended by striking the paragraphs.

Sec. 24. Section 331.508, subsection 7, Code 1993, is amended by striking the subsection.

Sec. 25. Section 331.512, subsection 5, Code 1993, is amended to read as follows:

5. Carry out duties relating to the preparation of the tax list as provided in sections ~~427A.3, 427A.6,~~ 428.4, 441.17, 441.21, 443.2 to 443.9 and 443.21.

Sec. 26. Section 331.552, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 32. File with the county auditor the name of a designated employee, if other than the first deputy treasurer, authorized to perform the duties of the treasurer during the absence or disability of the treasurer and the name of any employee authorized to sign, on behalf of the treasurer, any form, notice, or document requiring the signature of the treasurer.

Sec. 27. Section 331.653, subsection 21, Code 1993, is amended by striking the subsection.

Sec. 28. Section 331.752, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. A resolution changing the full-time or part-time status of a county attorney may take effect at any time before the sixty days expire upon agreement of the board of supervisors and the affected county attorney or county attorney-elect.

Sec. 29. Section 331.756, subsection 5, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

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 a 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 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.

Sec. 30. Section 331.756, subsections 13, 23, 30, 75, and 76, Code Supplement 1993, are amended by striking the subsections.

Sec. 31. Section 331.903, subsection 4, Code 1993, is amended to read as follows:

4. Each deputy officer, assistant and clerk shall perform the duties assigned by the principal officer making the appointment. During the absence or disability of the principal officer, the first deputy, or designee in those instances where there is no first deputy or in the absence or disability of the first deputy, shall perform the duties of the principal officer.

Sec. 32. Section 351.25, Code 1993, is amended to read as follows:

351.25 DOG AS PROPERTY.

All dogs under six months of age, and all dogs over said age and wearing a collar with a valid ~~license~~ rabies vaccination tag attached ~~thereto~~ to the collar, shall be deemed property. Dogs not ~~so~~ provided with ~~license~~ a rabies vaccination tag shall not be deemed property.

Sec. 33. Section 351.26, Code 1993, is amended to read as follows:

351.26 RIGHT AND DUTY TO KILL ~~UNLICENSED~~ UNTAGGED DOG.

It shall be lawful for any person, and the duty of all peace officers within their respective jurisdictions unless such jurisdiction shall have otherwise provided for the seizure and impoundment of dogs, to kill any dog for which a ~~license~~ rabies vaccination tag is required, when ~~such~~ the dog is not wearing a collar with ~~license~~ rabies vaccination tag attached ~~as herein provided~~.

Sec. 34. Section 351.27, Code 1993, is amended to read as follows:

351.27 RIGHT TO KILL ~~LICENSED~~ TAGGED DOG.

It shall be lawful for any person to kill a dog, ~~licensed and~~ wearing a collar with ~~license~~ a rabies vaccination tag attached, when ~~such~~ the dog is caught in the act of worrying, chasing, maiming, or killing any domestic animal or fowl, or when such dog is attacking or attempting to bite a person.

Sec. 35. Section 427.3, subsections 1 and 2, Code 1993, are amended by striking the subsections.

Sec. 36. Section 455E.11, subsection 2, paragraph a, subparagraph (15), Code Supplement 1993, is amended to read as follows:

(15) Notwithstanding the limitations of use of the fees imposed under section 455B.310 and retained by a city, county, public agency, or private agency under this section, moneys retained by the city, county, public agency, or private agency may be used ~~to defray the cost of installation of a scale at a sanitary landfill or to defray the costs of closure of the sanitary landfill, the costs related to the establishment of a transfer station, or the costs of a hydrogeological plan~~ for other environmental protection and environmental compliance activities.

Sec. 37. Section 568.3, Code 1993, is amended to read as follows:

568.3 APPLICATION BY PROSPECTIVE PURCHASER.

~~If the county auditor fails or neglects to make such application, then any~~ A person desiring to purchase ~~such~~ land described in section 568.1 may file a written application with the secretary of state, asking that the ~~said~~ land be surveyed, appraised, and sold.

Sec. 38. Section 568.4, Code 1993, is amended to read as follows:

568.4 FORM OF APPLICATION.

The ~~said~~ application ~~whether made by the county auditor or by a person desiring to purchase the land,~~ shall contain an accurate description ~~thereof~~ of the land, stating whether the land is abandoned river channel, or land within ~~such~~ the abandoned river channel, or an island or a sand bar in a navigable stream, and giving the number of township and range in which it is located, and the section numbers if possible, and also the estimated acreage.

Sec. 39. Section 602.8102, subsection 34, Code Supplement 1993, is amended by striking the subsection.

Sec. 40. Section 641.1, Code 1993, is amended to read as follows:

641.1 INDEBTEDNESS DUE THE STATE.

In all cases in which any person is indebted to the state, or to any officer or agent thereof for the use or benefit of the state, the ~~proper county attorney or~~ attorney general shall demand payment or security therefor, when, in the opinion of ~~said county attorney or~~ the attorney general, the debt is not sufficiently secured.

Sec. 41. Section 641.2, Code 1993, is amended to read as follows:

641.2 ATTACHMENT AUTHORIZED.

In all actions for money due to the state, or to any agent or officer for the use of the state, it shall be lawful for an attachment to issue against the property or debts of the defendant not exempt from execution, upon the filing of an affidavit ~~by the county attorney of the proper county, or~~ of the attorney general, that the ~~county attorney or~~ attorney general verily believes that a specific amount therein stated is justly due, and the defendant therein has refused to pay or secure the same, and unless an attachment is issued against the property of the defendant there is danger that the amount due will be lost to the state.

Sec. 42. REPEALS.

1. Chapters 169B and 361, Code 1993, are repealed.

2. Sections 70A.24, 351.1 through 351.14, 351.17, 351.20, 351.22 through 351.24, 351.34, 427A.2 through 427A.6, 427A.9 through 427A.11, 428.10, and 568.2, Code 1993, are repealed.

Approved May 12, 1994

CHAPTER 1174

TERMINATION OF PARENTAL RIGHTS – ADOPTION PROCEDURES

H.F. 2377

AN ACT relating to termination of parental rights and adoption procedures, providing for applicability of the Act, providing penalties and an applicability provision.

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

Section 1. Section 22.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Information contained in a declaration of paternity completed and filed with the state registrar of vital statistics pursuant to section 144.12A, except to the extent that the information may be provided to persons in accordance with section 144.12A.

Sec. 2. NEW SECTION. 144.12A DECLARATION OF PATERNITY REGISTRY.

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

a. "Child" means a person under eighteen years of age for whom paternity has not been established.

b. "Court" means the juvenile court.

c. "Father" means the male, biological parent of a child.

d. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child.

e. "Registrant" means a person who has registered pursuant to this section and who claims to be the father of a child.

f. "Registrar" means the state registrar of vital statistics.

g. "Registry" means the declaration of paternity registry established in this section.

2. a. The registrar shall establish a declaration of paternity registry to record the name, address, social security number, and any other identifying information required by rule of the department of a putative father who wishes to register under this section prior to the birth of a child and no later than the date of the filing of the petition for termination of parental rights.

b. The declaration does not constitute an affidavit of paternity filed pursuant to section 252A.3 and declarations filed shall be maintained by the registrar in a registry distinct from the registry used to maintain affidavits of paternity filed pursuant to section 252A.3. A declaration of paternity filed with the registry may be used as evidence of paternity in an action to establish paternity or to determine a support obligation with respect to the putative father.

c. Failure or refusal to file a declaration of paternity shall not be used as evidence to avoid a legally established obligation of financial support for a child.

3. A person who files a declaration of paternity with the registrar shall include in the declaration all of the following:

a. The person's name, current address, social security number, and any other identifying information requested by the department. If the person filing the declaration of paternity changes the person's address, the person shall notify the registrar of the new address in a manner prescribed by the department.

b. The name, last known address, and social security number, if known, of the mother of the child, or any other identifying information requested by the department.

c. The name of the child, if known, and the date and location of the birth of the child, if known.

d. The registrar shall accept a declaration of paternity filed in accordance with this section.

e. The registrar shall forward a copy of the declaration to the mother as notification that the person has registered with the registry.

f. The registrar shall accept and immediately register, upon receipt, a declaration of paternity without a fee and without the signature of the biological mother. The registrar may charge a reasonable fee as established by rule of the department for processing searches of the registry.

4. The department shall, upon request, provide the name, address, social security number, and any other identifying information of a registrant to the biological mother of the child; a court; the department of human services; the attorney of any party to an adoption, termination of parental rights, or establishment of paternity or support action; or to the child support recovery unit for an action to establish paternity or support. The information shall not be divulged to any other person and shall be considered a confidential record as to any other person, except upon order of the court for good cause shown. If the registry has not received a declaration of paternity, the department shall provide a written statement to that effect to the person making the inquiry.

5. a. Information provided to the registry may be revoked by the registrant by submission of a written statement signed and acknowledged by the registrant before a notary public.

b. The statement shall include a declaration that to the best of the registrant's knowledge, the registrant is not the father of the named child or that paternity of the true father has been established.

c. Revocation shall be deemed a nullity and the information provided by the registrant shall be expunged.

d. Revocation is effective only following the birth of the child.

6. The department shall adopt rules necessary to implement and administer this section. The rules shall include establishment of sites throughout the state for local distribution of declaration of paternity registration forms.

Sec. 3. Section 232.116, subsection 1, paragraph d, subparagraph (3), Code Supplement 1993, is amended to read as follows:

(3) There is clear and convincing evidence that the parents have not maintained significant and meaningful contact with the child during the previous six consecutive months and have made no reasonable efforts to resume care of the child despite being given the opportunity to do so. For the purposes of this subparagraph, "significant and meaningful contact" includes but is not limited to the affirmative assumption by the parents of the duties encompassed by

the role of being a parent. This affirmative duty, in addition to financial obligations, requires continued interest in the child, a genuine effort to complete the responsibilities prescribed in the case permanency plan, a genuine effort to maintain communication with the child, and requires that the parents establish and maintain a place of importance in the child's life.

Sec. 4. NEW SECTION. 232.168 ATTORNEY GENERAL TO ENFORCE.

The attorney general may, on the attorney general's own initiative, institute any criminal and civil actions and proceedings under this division, at whatever stage of placement necessary, to enforce the interstate compact on the placement of children, including, but not limited to, seeking enforcement of the provisions of the compact through the courts of a party state. The department of human services shall cooperate with the attorney general and shall refer any placement or proposed placement to the attorney general which may require enforcement measures.

Sec. 5. NEW SECTION. 238.43A CONTRACTS FOR SERVICES — LIABILITY FOR COSTS.

An agency which enters into a contract with a referral agency to provide child placement services is liable for the costs of services which are paid prior to the provision of services, if the services are not subsequently provided.

Sec. 6. Section 600.1, Code 1993, is amended to read as follows:

600.1 CONSTRUCTION.

This chapter shall be construed liberally. The ~~welfare~~ best interest of the person to be adopted shall be the paramount consideration in interpreting this division. However, the interests of the adopting parents shall be given due consideration in this interpretation. However, in determining the best interest of the person to be adopted and the interests of the adopting parents, any evidence of interests relating to a period of time during which the person to be adopted is placed with prospective adoptive parents and during which the placement is not in compliance with the law, adoption procedures, or any action by the court, shall not be considered in the determination.

Sec. 7. Section 600.9, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

600.9 REPORT OF EXPENDITURES.

1. a. A biological parent shall not receive any thing of value as a result of the biological parent's child or former child being placed with and adopted by another person, unless that thing of value is an allowable expense under subsection 2.

b. Any person assisting in any way with the placement or adoption of a minor person shall not charge a fee which is more than usual, necessary, and commensurate with the services rendered.

c. If the biological parent receives any prohibited thing of value, if a person gives a prohibited thing of value, or if a person charges a prohibited fee under this subsection, the person is guilty of a simple misdemeanor.

2. An adoption petitioner of a minor person shall file with the court, prior to the adoption hearing, a full accounting of all disbursements of any thing of value paid or agreed to be paid by or on behalf of the petitioner in connection with the petitioned adoption. This accounting shall be made by a report prescribed by the court and shall be signed and verified by the petitioner. Only expenses incurred in connection with the following and any other expenses approved by the court are allowable:

a. The birth of the minor person to be adopted.

b. Placement of the minor person with the adoption petitioner and legal expenses related to the termination of parental rights and adoption processes.

c. Pregnancy-related medical care received by the biological parents or the minor person during the pregnancy or delivery of the minor person and for medically necessary postpartum care for the biological parent and the minor person.

d. Living expenses of the mother, permitted in an amount not to exceed the cost of room and board or rent and food, and transportation, for medical purposes only, on a common carrier of persons or an ambulance, for no longer than thirty days after the birth of the minor person.

e. Costs of the counseling provided to the biological parents prior to the birth of the child, in accordance with section 600A.4, subsection 2, to the biological parents prior to the release of custody and any counseling provided to the biological parents for not more than sixty days after the birth of the child.

f. Living expenses of the minor person if the minor person is placed in foster care during the pendency of the termination of parental rights proceedings.

All payments for allowable expenses shall be made to the provider, if applicable, and not directly to the biological parents. The provisions of this subsection do not apply in a stepparent adoption.

Sec. 8. Section 600.11, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A person who has been granted visitation rights with the child to be adopted pursuant to section 598.35.

Sec. 9. Section 600.14, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The supreme court may adopt rules which provide for the expediting of contested cases under this chapter and chapter 600A.

Sec. 10. Section 600.16, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. The provisions of this section also apply to information collected pursuant to section 600A.4, pertaining to the family medical history, medical and developmental history, and social history of the person to be adopted.

Sec. 11. Section 600.16, subsection 3, Code 1993, is amended to read as follows:

3. Any person other than the adopting parents or the adopted person, who discloses information in violation of this section, is guilty of a simple misdemeanor for the first offense, a serious misdemeanor for a second offense, and an aggravated misdemeanor for a third or subsequent offense.

Sec. 12. Section 600A.1, Code 1993, is amended to read as follows:

600A.1 CONSTRUCTION.

This chapter shall be construed liberally. The ~~welfare~~ best interest of the child subject to the proceedings of this chapter shall be the paramount consideration in interpreting this chapter. However, the interests of the parents of this child or any natural person standing in the place of the parents to this child shall be given due consideration in this interpretation.

The best interest of a child requires that each biological parent affirmatively assume the duties encompassed by the role of being a parent. In determining whether a parent has affirmatively assumed the duties of a parent, the court shall consider, but is not limited to consideration of, the fulfillment of financial obligations, demonstration of continued interest in the child, demonstration of a genuine effort to maintain communication with the child, and demonstration of the establishment and maintenance of a place of importance in the child's life. Application of this chapter is limited to termination of parental rights proceedings and shall not apply to actions to establish paternity or to overcome established paternity.

Sec. 13. Section 600A.2, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 14A. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of birth of the child.

Sec. 14. Section 600A.4, subsection 2, Code 1993, is amended by adding the following new paragraphs after paragraph c and relettering the subsequent paragraphs:

NEW PARAGRAPH. d. Shall be preceded by the offering of three hours of counseling to the biological parents regarding the decision to release custody and the alternatives available to the biological parents in disposition of the child. The release of custody shall contain written acknowledgment of the offering of counseling to the biological parent and of acceptance or refusal of the counseling. If accepted, the counseling shall be provided after the birth of the child and prior to the signing of a release of custody or the filing of a petition for termination of parental rights as applicable. Counseling shall be provided only by a person who is qualified under rules adopted by the department of human services which shall include a requirement that the person complete a minimum number of hours of training in the area of adoption-related counseling approved by the department or, in the alternative, that the person has a minimum level of experience, as determined by rule of the department, in the provision of adoption-related counseling. The counselor shall provide an affidavit, which shall be attached to the release of custody, certifying that the counselor has provided the biological parent with the requested counseling or that the biological parent has refused counseling prior to the signing of the release of custody and documentation that the person is qualified to provide the requested counseling as prescribed by this paragraph. The requirements of this paragraph do not apply to a release of custody which is executed for the purposes of a stepparent adoption.

NEW PARAGRAPH. e. Shall contain a notice to the biological parent that if the biological parent chooses to identify the other biological parent and knowingly and intentionally identifies a person who is not the other biological parent in the written release of custody or in any other document related to the termination of parental rights proceedings, the biological parent who provides the incorrect identifying information is guilty of a simple misdemeanor.

NEW PARAGRAPH. f. Shall be accompanied by a report which includes, to the extent available, the complete family medical and social history of the person to be adopted including any known genetic, metabolic, or familial disorders and the complete medical and developmental history of the person to be adopted, and a social history of the minor child and the minor child's family but which does not disclose the identity of the biological parents of the person to be adopted. The social history may include but is not limited to the minor child's racial, ethnic, and religious background and a general description of the minor child's biological parents and an account of the minor child's prior and existing relationship with any relative, foster parent, or other individual with whom the minor child regularly lives or whom the child regularly visits.

A biological parent may also provide ongoing information to the adoptive parents, as additional medical or social history information becomes known, by providing information to the clerk of court, the department of human services, or the agency which made the placement, and may provide the current address of the biological parent. The clerk of court, the department of human services, or the agency which made the placement shall transmit the information to the adoptive parents if the address of the adoptive parents is known.

A person who furnishes a report required under this paragraph and the court shall not disclose any information upon which the report is based except as otherwise provided in this section and such a person is subject of* the penalties provided in section 600.16, as applicable. A person who is the subject of any report may bring a civil action against a person who discloses the information in violation of this section.

Information provided under this paragraph shall not be used as evidence in any civil or criminal proceeding against a person who is the subject of the information.

The department shall prescribe forms designed to obtain the family medical and social history and shall provide the forms at no charge to any agency or person who executes a release of custody of the minor child or who files a petition for termination of parental rights. The existence of this report does not limit a person's ability to petition the court for release of records in accordance with other provisions of law.

Sec. 15. Section 600A.4, subsection 2, paragraph d, Code 1993, is amended to read as follows:

*The word "to" probably intended.

~~d~~ g. Shall be signed, not less than seventy-two hours after the birth of the child to be released, by all living parents. The seventy-two hour minimum time period requirement shall not be waived.

Sec. 16. Section 600A.6, subsection 1, Code 1993, is amended to read as follows:

1. A termination of parental rights under this chapter shall, unless provided otherwise in this section, be ordered only after notice has been served on all necessary parties and these parties have been given an opportunity to be heard before the juvenile court except that notice need not be served on the petitioner or on any necessary party who is spouse of the petitioner. "Necessary party" means any person whose name, residence, and domicile are required to be included on the petition under section 600A.5, subsection 3, paragraphs "a" and "b" and any putative father who files a declaration of paternity in accordance with section 144.12A, or any unknown putative father, if any, except a ~~natural~~ biological parent who has been convicted of having sexually abused the other ~~natural~~ biological parent while not cohabiting with that parent as husband and wife, thereby producing the birth of the child who is the subject of the termination proceedings.

Sec. 17. Section 600A.6, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A person who is appointed as a guardian ad litem for a minor child shall not also be the attorney for any party other than the minor child in any proceeding involving the minor child. The guardian ad litem may make an independent investigation of the interest of the child and may cause witnesses to appear before the court to provide testimony relevant to the best interest of the minor child.

Sec. 18. Section 600A.6, subsections 5 and 6, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

5. A necessary party whose identity is known but whose location or address is unknown or all unknown putative fathers, if any, shall be served by published notice in the form provided in this subsection. If the identity of a necessary party is known but the location of the necessary party is unknown, notice by publication shall also include the name of the necessary party. The child's actual or expected date of birth and place of birth shall also be stated in the notice. Notice by publication shall be served according to the rules of civil procedure relating to an original notice where not inconsistent with the provisions of this section. Notice by publication shall be published once a week for two consecutive weeks in a medium which is reasonably expected to provide notice to the necessary party, the last publication to be not less than three days prior to the hearing on termination of parental rights. The notice shall be substantially in the following form:

TO: _____ (OR) ALL PUTATIVE FATHERS OF A CHILD (EXPECTED TO BE) BORN ON THE _____ DAY OF _____, _____, IN _____, IOWA.

You are notified that there is now on file in the office of the clerk of court for _____ county, a petition in case number _____, which prays for a termination of your parent-child relationship to a child (expected to be) born on the _____ day of _____, _____. For further details contact the clerk's office. The petitioner's attorney is _____.

You are notified that there will be a hearing on the petition to terminate parental rights before the Iowa District Court For _____ County, at the Courthouse in _____, Iowa, at _____.M. on the _____ day of _____, _____.

CLERK OF THE ABOVE COURT

Sec. 19. Section 600A.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. If a putative father files a declaration of paternity pursuant to section 144.12A, the putative father or the mother of the child may request that paternity be established pursuant to section 600B.41 prior to the granting of a dismissal of the petition to terminate parental rights.

Sec. 20. Section 600A.9, subsection 2, Code 1993, is amended to read as follows:

2. If an order is issued under subsection 1, paragraph "b" of this section, the juvenile court shall retain jurisdiction to change a guardian or custodian and to allow a terminated parent or any putative biological parent to request vacation or appeal of the termination order ~~if the child is not on placement for adoption or a petition for adoption of the child is not on file~~ which request must be made within thirty days of issuance of the granting of the order. The period for request by a terminated parent or by a putative biological parent for vacation or appeal shall not be waived or extended and a vacation or appeal shall not be granted after the expiration of this period. The juvenile court shall grant the vacation request only if it is in the best interest of the child. The supreme court shall prescribe rules to establish a period of thirty days, which shall not be waived or extended, in which a terminated or putative biological parent may request a vacation or appeal of a termination order.

Sec. 21. NEW SECTION. 600A.9A TERMINATION PROCEDURES – PENALTY FOR VIOLATION.

1. Any biological parent who chooses to identify the other biological parent and who knowingly and intentionally identifies a person who is not the other biological parent in the written release of custody or in any other document related to the termination of parental rights proceedings is guilty of a simple misdemeanor.

2. Any person who accepts a release of custody under section 600A.4 prior to the expiration of the seventy-two-hour period required, is guilty of a serious misdemeanor.

Sec. 22. PENDING PROCEEDINGS UNAFFECTED. This Act does not apply to a termination of parental rights proceeding or an adoption proceeding pending on July 1, 1994.

Approved May 12, 1994

CHAPTER 1175

EDUCATIONAL FINANCES, ACTIVITIES, AND PROCEDURES

S.F. 2234

AN ACT relating to educational finances, activities, and procedures administered by or through the department of education.

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

Section 1. Section 237A.1, subsection 4, paragraph a, Code Supplement 1993, is amended to read as follows:

a. An instructional program administered by a public or nonpublic school system accredited by the department of education or the state board of regents~~, except~~ or a program provided under section 279.49 or 280.3A.

Sec. 2. Section 237A.12, unnumbered paragraphs 2, 3, 4, and 5, Code 1993, are amended to read as follows:

Rules ~~promulgated~~ adopted by the state fire marshal for buildings, other than school buildings, used as child care centers as an adjunct to the primary purpose of the building shall take into consideration that children are received for temporary care only and shall not differ from

rules ~~promulgated~~ adopted for these buildings when they are used by groups of persons congregating from time to time in the primary use and occupancy of the buildings. However, the rules may require a fire-rated separation from the remaining portion of the building if the fire marshal determines that the separation is necessary for the protection of children from a specific flammable hazard.

Rules relating to fire safety shall be adopted under this chapter by the state fire marshal in consultation with the department. Rules adopted by the state fire marshal for a building which is owned or leased by a school district or accredited nonpublic school and used as a child day care facility shall not differ from standards adopted by the state fire marshal for school buildings under chapter 100. Rules relating to sanitation shall be adopted by the department in consultation with the director of public health. All rules shall be developed in consultation with the state child day care advisory council. The state fire marshal shall inspect the facilities.

If a building is owned or leased by a school district or accredited nonpublic school ~~building~~ and complies with standards adopted by the state fire marshal for school buildings under chapter 100, the building is considered appropriate for use by a child day care facility ~~caring for school age children~~. The rules adopted by the administrator under this section shall not require the facility to comply with building requirements which differ from requirements for use of the building as a school.

Standards and requirements set by a city or county for a ~~school~~ building which is owned or leased by a school district or accredited nonpublic school and used as a child day care facility ~~as an adjunct to the primary purpose of the building~~ shall take into consideration that children are received for temporary care only and shall not differ from standards and requirements set for ~~the primary purpose~~ use of the building as a school.

Sec. 3. Section 257.31, subsection 14, paragraph a, Code Supplement 1993, is amended to read as follows:

a. If the amount certified for a school district to the director of the department of management under this subsection for the base year is positive, the director of the department of management shall subtract the amount of the positive balance exceeding ten percent of the additional funds generated for special education, not to include any previous carryover, from the amount of state aid remaining to be paid to the district during the budget year. If the positive amount exceeding the ten percent amount exceeds the amount of state aid that remains to be paid to the district, not including any previous carryover, the school district shall pay the excess on a quarterly basis prior to June 30 of the budget year to the director of the department of management from other funds received by the district. The director of the department of management shall determine the amount of the positive balance that exceeds the ten percent amount that came from local property tax revenues and shall increase the district's total state school aids available under this chapter for the next following budget year by the amount so determined and shall reduce the district's tax levy computed under section 257.4 for the next following budget year by the amount necessary to compensate for the increased state aid.

Sec. 4. Section 260C.28, subsection 2, Code 1993, is amended to read as follows:

2. However, the board of directors may annually certify for levy a tax on taxable property in the merged area at a rate in excess of the three cents per thousand dollars of assessed valuation specified under subsection 1 if the excess tax levied does not cause the total rate certified to exceed a rate of nine cents per thousand dollars of assessed valuation, and the excess revenue generated is used for purposes of program sharing between community colleges or for the purchase of instructional equipment. Programs that are shared shall be designed to increase student access to community college programs and to achieve efficiencies in program delivery at the community colleges, including, but not limited to, the programs described under sections 260C.45 and 260C.46. Prior to expenditure of the excess revenues generated under this subsection, the board of directors shall obtain the approval of the director of the department of education.

Sec. 5. Section 273.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 20. Be authorized to purchase equipment as provided in section 279.48.

Sec. 6. Section 275.51, unnumbered paragraph 1, Code Supplement 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 shall be established by the board of directors of a school district if a dissolution proposal has been prepared by ~~eligible~~ qualified 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~~ qualified electors.

Sec. 7. NEW SECTION. 279.48 EQUIPMENT PURCHASE.

1. The board of directors of a school corporation may purchase equipment, and may negotiate and enter into a loan agreement and issue a note to pay for the equipment subject to the following terms and procedures.

a. The note must mature within five years, or the useful life of the equipment, whichever is less.

b. The note may bear interest at a rate to be determined by the board of directors in the manner provided in section 74A.3, subsection 1. Chapter 75 is not applicable.

c. The board of directors shall provide for the form of the agreement and note.

d. Principal and interest on the note must be payable from budgeted receipts in the debt service fund for each year of a period of up to five years.

2. The total of scheduled annual payments of principal or interest due and payable from current budgeted receipts or future budgeted receipts with respect to all loan agreements authorized under this section or section 285.10, subsection 7, paragraph "b", must not exceed ten percent of the last authorized budget of the school corporation.

3. Before entering into a loan agreement for an equipment purchase, the school corporation must publish a notice, including a statement of the amount and purpose of the agreement, at least once in a newspaper of general circulation within the school corporation at least ten days before the meeting at which the loan agreement is to be approved.

Sec. 8. Section 279.49, Code 1993, is amended to read as follows:

279.49 CHILD DAY CARE PROGRAMS.

1. For the purposes of this section unless the context otherwise requires, "child day-care program" means child day care that is not licensed or approved by the department of human services under chapter 237A except as provided under this section.

2. The board of directors of a school corporation may operate or contract for the operation of a program to provide child day care to children not enrolled in school or to students enrolled in kindergarten through grade six before and after school, or to both. Programs operated or contracted by a board shall either meet standards for child day care programs adopted by the state board of education or shall be licensed by the department of human services under chapter 237A as a child care center. A program operated by a board under contract which is not located on property owned or leased by the board must be licensed by the department of human services.

3. The person employed to be responsible for a program operated or contracted by a board that is not licensed by the department of human services shall be an appropriately ~~certificated~~ licensed teacher under chapter 272 or ~~the program operated by contract with the board shall be licensed as a child care center under chapter 237A~~ meet other standards adopted by the state board of education. ~~The board shall require the employment of adequate personnel for a program to meet the personnel standards adopted by the state board of education, pursuant to section 256.7, subsection 13, or the department of human services, pursuant to section 237A.12, subsection 1.~~

4. The facilities housing a program operated under this section shall comply with standards adopted by the state fire marshal for school buildings under chapter 100. In addition, if a program involves children who are younger than school age, the facilities housing those children shall meet the fire safety standards which would apply to that age of child in a child day care facility licensed by the department of human services.

5. The board may establish a fee for the cost of participation in a child day care program authorized under this section. The fee shall be established pursuant to a sliding fee schedule based upon staffing costs and other expenses and a family's ability to pay. If a fee is established, the parent or guardian of a child participating in a program shall be responsible for payment of any agreed upon fee. The board may require the parent or guardian to furnish transportation of the child.

6. The board may utilize or make application for program subsidies from any existing day care funding streams.

7. ~~Programs~~ The components of programs established under this section for child day care shall include, but are not limited to, parental involvement in program design and direction, activities designed to further children's physical, mental, and emotional development, and a parental education component to educate parents about the physical, mental, and emotional development of children.

Sec. 9. NEW SECTION. 280.3A ACCREDITED NONPUBLIC SCHOOL CHILD DAY CARE PROGRAMS.

Authorities in charge of accredited nonpublic schools may operate or contract for the operation of child day care programs, as defined in section 279.49, subsection 1. The provisions of section 279.49 as they relate to child day care programs of a school corporation and its board of directors apply to the child day care programs of the accredited nonpublic school and the authority in charge.

Sec. 10. Section 282.18, subsections 2, 4, 5, 7, and 14, Code Supplement 1993, are amended to read as follows:

2. By October 30 of the preceding school year, the parent or guardian shall send notification to the district of residence, ~~and to the department of education~~ on forms prescribed by the department of education, that the parent or guardian intends to enroll the parent's or guardian's child in a public school in another school district. The parent or guardian shall describe the reason for enrollment in the receiving district. If a parent or guardian fails to file a notification that the parent intends to enroll the parent's or guardian's child in a public school in another district by the deadline of October 30 of the previous year, and ~~good cause~~ one of the criteria defined in section 282.18, subsection 18, exists for the failure to meet the deadline or if the request is to enroll a child in kindergarten in a public school in another district, the parent or guardian shall be permitted to enroll the child in the other district in the same manner as if the deadline had been met.

The board of the district of residence shall take action on the request no later than November 30 of the preceding school year and shall transmit any approved request within five days after board action on the request. The parent or guardian may withdraw the request ~~during November of the preceding school year unless the board of the receiving district has acted on the request~~ at any time prior to the start of the school year. The board of the receiving district shall take action to approve or disapprove the request no later than December 31 of the preceding school year. The board of the receiving district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil. If the request is granted, the board shall transmit a copy of the form to the school district of residence within five days after board action.

~~4. The board of each school district shall adopt a policy relating to the order in which requests for enrollment in other districts shall be considered.~~

~~The board of the receiving school district shall enroll the pupil in a school in the receiving district for the following school year unless the receiving district does not have classroom space for the pupil.~~

4. In all districts involved with ~~volunteer~~ voluntary or court-ordered desegregation, minority and nonminority pupil ratios shall be maintained according to the desegregation plan or order. The superintendent of a district subject to ~~volunteer~~ voluntary or court-ordered desegregation may deny a request for transfer under this section if the superintendent finds that enrollment or release of a pupil will adversely affect the district's implementation of the desegregation order or plan. If, however, a transfer request would facilitate a voluntary or court-ordered desegregation plan, the district shall give priority to granting the request over other requests.

~~5.~~ A parent or guardian, whose request has been denied because of a desegregation order or plan, may appeal the decision of the superintendent to the board of the district in which the request was denied. The board may either uphold or overturn the superintendent's decision. A decision of the board to uphold the denial of the request is subject to appeal under section 290.1.

5. If, however, a request to enroll a child in another district is denied by the board of the child's district of residence for failure to show good cause for not meeting the request deadline, the parent or guardian shall be permitted to appeal the decision of the board either directly to the director of the department of education or to the state board under chapter 290, but not to both. ~~If the matter is to be heard by the director, or the director's designee, the matter shall be heard de novo in accordance with the procedures contained in chapter 17A. If a designee of the director hears the matter, the findings of the director's designee shall be reviewed by and are subject to the approval of the director.~~ Notwithstanding chapter 17A, in an appeal arising from the denial of a parent's or guardian's request for open enrollment, where the denial was for failure to show good cause for not meeting the request deadline, the director or designee assigned to hear the appeal on behalf of the director or state board may, with the agreement of the parties to the appeal, issue an oral decision at the conclusion of the hearing on the appeal. The oral decision shall comport with previously established decisions of the director and state board. However, any party to the appeal may request a written decision and the director or state board shall issue a written decision. The department shall recommend, and the state board shall adopt, rules to implement this subsection.

7. A request under this section is for a period of not less than ~~four years unless the pupil will graduate, the pupil's family moves to another school district, or~~ one year. If the request is for more than one year and the parent or guardian desires to have the pupil enroll in a different district, the parent or guardian ~~petitions~~ may petition the current receiving district by October 30 of the previous school year for permission to enroll the pupil in a different district, ~~which may include the district of residence, within the four-year period~~ for a period of not less than one year. ~~If the parent or guardian requests permission of the receiving district to enroll the pupil in a different district within the four-year period~~ Upon receipt of such a request, the current receiving district ~~school~~ board may act on the request to transfer to the other school district ~~within five days of~~ at the next regularly scheduled board meeting after the receipt of the request. The new receiving district shall enroll the pupil in a school in the district unless there is insufficient classroom space in the district or unless enrollment of the pupil would adversely affect the court-ordered or voluntary desegregation ~~orders affecting~~ a plan of the district. A denial of a request to change district enrollment within the ~~four-year~~ approved period is subject to appeal under section 290.1. However, a pupil who has been in attendance in another district under this section may return to the district of residence and enroll at any time, once the parent or guardian has notified the district of residence and the receiving district in writing of the decision to enroll the pupil in the district of residence.

14. The board of directors of a school district subject to ~~volunteer~~ voluntary or court-ordered desegregation ~~may vote not to participate in open enrollment under this section during the school year commencing July 1, 1990, and ending June 30, 1991. If a district chooses not to participate in open enrollment under this paragraph, the district~~ shall develop a policy for implementation of open enrollment in the district ~~for that following school year~~. The policy shall contain objective criteria for determining when a request would adversely impact the desegregation order or plan and criteria for prioritizing requests that do not have an adverse impact on the order or plan.

Sec. 11. Section 291.1, Code 1993, is amended to read as follows:

291.1 PRESIDENT — DUTIES.

The president of the board of directors shall preside at all of its meetings, ~~sign all warrants and drafts, respectively, drawn upon the county treasurer for money apportioned and taxes collected and belonging to the school corporation, and all orders on the treasurer drawn as provided by law,~~ sign all contracts made by the board, and appear in behalf of the corporation in all actions brought by or against it, unless individually a party, in which case this duty shall be performed by the secretary. The president or the president's designee shall sign, using an original or facsimile signature, all school district warrants drawn as provided by law. The board of directors, by resolution, may designate an individual, who shall not be the secretary, to sign warrants on behalf of the president.

Sec. 12. Section 291.8, Code 1993, is amended to read as follows:

291.8 WARRANTS.

The secretary shall ~~countersign all warrants and drafts upon the county treasurer drawn or signed by the president;~~ draw each order on the treasurer, specify the fund on which it is drawn and the use for which the money is appropriated; countersign using an original or facsimile signature and keep a register of the ~~same~~ order, showing the number, date, to whom drawn, the fund upon which it is drawn, the purpose and the amount; and at each regular annual meeting furnish the board with a copy of the ~~same~~ register.

Sec. 13. Section 297.23, Code 1993, is amended to read as follows:

297.23 ADVERTISEMENT FOR BIDS.

Before making a sale, the board shall advertise for bids for ~~said~~ the property. ~~Such~~ The advertisement shall definitely describe ~~said~~ the property and be published by at least one insertion each week for two consecutive weeks in some newspaper having general circulation in the district. However, individual property items having a value of not more than five thousand dollars, other than real property, may be disposed of by any procedure which is adopted by the board and each sale shall be published by at least one insertion each week for two consecutive weeks in some newspaper having general circulation in the district.

Sec. 14. Section 298.3, subsections 5 and 10, Code 1993, are amended to read as follows:

5. Procuring or acquisition of ~~libraries~~ library facilities.

10. Lease-purchase option agreements for school buildings and for equipment exceeding in value five thousand dollars per single unit.

Sec. 15. Section 301.10, subsection 1, Code Supplement 1993, is amended to read as follows:

1. ~~At or before the time of filing a bid, make~~ Make available samples of all textbooks ~~included in the bid,~~ accompanied by lists giving the lowest wholesale and contract prices for the textbooks.

Sec. 16. Section 301.30, unnumbered paragraph 4, Code 1993, is amended to read as follows:

Claims for reimbursement shall be made to the department of education by July 15 by the public school district providing textbook services during a school year on a form prescribed by the department, and the claim shall state ~~the services provided and~~ the actual costs incurred in, and the actual number of nonpublic students requesting, the provision of textbook services. Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim. ~~By February 1 and by July 15 of each year the~~ The department shall certify to the director of revenue and finance the amounts of approved claims to be paid, and the director of revenue and finance shall draw warrants payable to school districts which have established claims. The public school district of attendance shall furnish the services and shall receive reimbursement from the state. However, the services must be comparable to the services of the district of attendance and cannot exceed the per pupil cost of the program of the district of attendance.

Sec. 17. Section 670.7, Code 1993, is amended to read as follows:

670.7 INSURANCE.

The governing body of a municipality may purchase a policy of liability insurance insuring against all or any part of liability which might be incurred by the municipality or its officers, employees, and agents under section 670.2 and section 670.8 and may similarly purchase insurance covering torts specified in section 670.4. The governing body of a municipality may adopt a self-insurance program, including but not limited to the investigation and defense of claims, the establishment of a reserve fund for claims, the payment of claims, and the administration and management of the self-insurance program, to cover all or any part of the liability. The governing body of a municipality may join and pay funds into a local government risk pool to protect itself against any or all liability. The governing body of a municipality may enter into insurance agreements obligating the municipality to make payments beyond its current budget year to provide or procure ~~such~~ the policies of insurance, self-insurance program, or local government risk pool. The premium costs of the insurance, the costs of a self-insurance program, the costs of a local government risk pool, and the amounts payable under ~~any such~~ the insurance agreements may be paid out of the general fund or any available funds or may be levied in excess of any tax limitation imposed by statute. However, for school districts, the costs shall be included in the district management levy as provided in section 296.7 if the district has certified a district management levy. If the district has not certified a district management levy, the cost shall be paid from the general fund. Any independent or autonomous board or commission in the municipality having authority to disburse funds for a particular municipal function without approval of the governing body may similarly enter into insurance agreements, procure liability insurance, adopt a self-insurance program, or join a local government risk pool within the field of its operation.

PARAGRAPH DIVIDED. The procurement of ~~such~~ this insurance constitutes a waiver of the defense of governmental immunity as to those exceptions listed in section 670.4 to the extent stated in the policy but shall have no further effect on the liability of the municipality beyond the scope of this chapter, but if a municipality adopts a self-insurance program or joins and pays funds into a local government risk pool ~~such~~ the action does not constitute a waiver of the defense of governmental immunity as to the exceptions listed in section 670.4.

PARAGRAPH DIVIDED. The existence of any insurance which covers in whole or in part any judgment or award which may be rendered in favor of the plaintiff, or lack of any such insurance, shall not be material in the trial of any action brought against the governing body of a municipality, or its officers, employees, or agents and any reference to such insurance, or lack of insurance, is grounds for a mistrial. A self-insurance program or local government risk pool is not insurance and is not subject to regulation under chapters 505 through 523C.

Sec. 18. Section 301.8, Code 1993, is repealed.

Approved May 13, 1994

CHAPTER 1176

INSURANCE REGULATION

S.F. 2282

AN ACT relating to the regulation of insurance including provisions concerning the disclosure of confidential information, the standard valuation of certain insurance policies and contracts and annuities and endowments, and the disclosure of certain transactions of insurers domiciled in this state, and providing an effective date.

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

Section 1. Section 505.7, subsection 1, Code Supplement 1993, is amended to read as follows:

1. All fees and charges which are required by law to be paid by insurance companies, ~~and~~ associations, and other regulated entities shall be payable to the commissioner of the insurance division of the department of commerce or department of revenue and finance, as provided by law, whose duty it shall be to account for and pay over the same to the treasurer of state at the time and in the manner provided by law for deposit in the general fund of the state.

Sec. 2. Section 505.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The commissioner may assess the costs of an audit or examination to a health insurance purchasing cooperative, in the same manner as provided for insurance companies under sections 507.7 through 507.9, and may establish by rule reasonable filing fees to fund the cost of regulatory oversight.

Sec. 3. Section 505.8, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The commissioner shall supervise all health insurance purchasing cooperatives providing services or operating within the state and the organization of domestic cooperatives. The commissioner may admit nondomestic health insurance purchasing cooperatives under the same standards as domestic cooperatives.

Sec. 4. NEW SECTION. 505.17 CONFIDENTIAL INFORMATION.

The disclosure of confidential information, administrative or judicial orders which contain confidential information, or information regarding other action of the division which is not a public record subject to disclosure, to regulatory officials from this or other states may be permitted by the commissioner provided that those officials are subject to, or agree to comply with, standards of confidentiality comparable to those imposed on the commissioner.

Sec. 5. NEW SECTION. 505.20 HEALTH ACCOUNTING STANDARDS – DUTIES OF COMMISSIONER.

The commissioner, in conjunction with the community health management information system established in chapter 144C, if enacted by the Seventy-fifth General Assembly, shall adopt rules establishing health accounting standards to be enforced statewide. The community health management information system board shall propose accounting standards for cost and quality to the commissioner for approval. The commissioner shall enforce the standards in conjunction with the community health management information system board.

Sec. 6. NEW SECTION. 505.21 HEALTH CARE ACCESS – DUTIES OF COMMISSIONER – PENALTIES.

1. The commissioner shall adopt rules establishing a requirement that an employer provide access to health care to the employees of the employer. The rules shall provide that an employer doing business within this state shall offer each employee, at a minimum, access to health insurance. The requirement contained in this section may be satisfied by offering any of the following:

a. Health care coverage through an insurer or health maintenance organization authorized to do business in this state.

b. Access to health benefits through a health benefits plan qualified under the federal Employee Retirement Income Security Act of 1974.

2. An employer may financially contribute toward the employee's health benefit plan. The employer shall offer payroll deduction of employee contributions and direct deposit of premium payments related to a health insurance purchasing cooperative or other health care coverage.

3. A violation of this section may be reported to the consumer and legal affairs bureau in the insurance division. The division may issue, upon a finding that an employer has failed to offer an employee access to health insurance, any of the following:

a. A cease and desist order instructing the employer to cure the failure and desist from future violations of this section.

b. An order requiring an employer who has previously been the subject of a cease and desist order to pay an employee's reasonable health insurance premiums necessary to prevent or cure a lapse in health care coverage arising out of the employer's failure to offer as required.

c. An order upon the employer assessing the reasonable costs of the division's investigation and enforcement action.

4. The insurance division shall annually provide a written report to the general assembly beginning January 1, 1995, which evaluates the effects of this section on providing universal coverage for all Iowans. If the division determines that the state has not achieved a level of individuals without health care coverage of less than three percent of total population through voluntary means by June 30, 1999, the division shall make recommendations for the implementation of and a financing mechanism for a requirement that all individuals in this state procure and maintain health care coverage for themselves and their dependents.

Sec. 7. Section 508.36, subsection 1, Code 1993, is amended to read as follows:

1. RESERVE VALUATION. The commissioner shall annually value, or cause to be valued, the reserve liabilities ~~(hereinafter called reserves)~~, referred to in this section as reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, ~~except that in the case of an alien company, such valuation shall be limited to its United States business,~~ and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and ~~methods (~~the net level premium method or other~~)~~ methods used in the calculation of such reserves. In calculating ~~such~~ the reserves, the commissioner may use group methods and approximate averages for fractions of a year or otherwise. ~~For the purpose of making such valuation the commissioner may employ a competent actuary who shall be paid by the company for which the service is rendered; but a domestic company may make such valuation and it shall be received by the commissioner upon satisfactory proof of its correctness.~~ In lieu of the valuation of the reserves ~~herein~~ required in this section of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard ~~herein~~ provided for in this section and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

~~Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.~~

Sec. 8. Section 508.36, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

2. ACTUARIAL OPINION OF RESERVES. This subsection is effective January 1, 1996.

a. GENERAL. A life insurance company doing business in this state shall annually submit the written opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are

consistent with prior reported amounts, and are in compliance with applicable laws of this state. The commissioner shall define by rule the requirements and content of this opinion and add any other items deemed to be necessary.

b. ACTUARIAL ANALYSIS OF RESERVES AND ASSETS SUPPORTING SUCH RESERVES.

(1) Unless exempted by rule, a life insurance company shall also annually include in the opinion required by paragraph "a", an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of policies and contracts specified by the commissioner by rule, when considered with respect to the assets held by the company associated with the reserves and related actuarial items, including, but not limited to, the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, are sufficient for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(2) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.

c. REQUIREMENTS FOR ACTUARIAL ANALYSIS. An opinion required by paragraph "b" shall be governed by the following provisions:

(1) A memorandum, in form and substance acceptable to the commissioner as specified by rule, shall be prepared to support each actuarial opinion.

(2) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by rule or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the rules or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare such supporting memorandum as is required by the commissioner.

d. REQUIREMENT FOR ALL OPINIONS. An opinion required under this section is governed by the following provisions:

(1) The opinion shall be submitted with the annual statement reflecting the valuation of such reserve liabilities for each year ending on or after December 31, 1995.

(2) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by rule.

(3) The opinion shall be based on standards adopted from time to time by the actuarial standards board and on such additional standards as the commissioner may by rule prescribe.

(4) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(5) For the purposes of this section, "qualified actuary" means a member in good standing of the American academy of actuaries who meets the requirements of the commissioner as specified by rule.

(6) Except in cases of fraud or willful misconduct, a qualified actuary is not liable for damages to any person, other than to the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(7) Disciplinary action which may be taken by the commissioner against the company or the qualified actuary shall be defined in rules adopted by the commissioner.

(8) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the opinion, shall be kept confidential by the commissioner and shall not be made public and shall not be subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules adopted pursuant to this section. Notwithstanding this subparagraph, the memorandum or other material may be released by the commissioner if either of the following apply:

(a) The commissioner receives the written consent of the company with which the opinion is associated.

(b) The American academy of actuaries requests that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

Once any portion of the confidential memorandum is cited by the company in its marketing, is cited before any governmental agency other than a state insurance department, or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

3. COMPUTATIONS OF MINIMUM STANDARDS. Except as otherwise provided in subsections 4, 5, and 12, the minimum standard for the valuation of all such policies and contracts issued prior to July 1, 1994, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subsections 4, 5, and 12, the minimum standard for the valuation of all such policies and contracts shall be the commissioner's reserve valuation methods defined in subsections 6, 7, 10, and 11, five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other policies and contracts, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1974, four percent interest for such policies issued prior to January 1, 1980, five and one-half percent interest for single premium life insurance policies and four and one-half percent interest for all other such policies issued on and after January 1, 1980, and the following tables:

a. For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies, the following:

(1) The commissioners 1941 standard ordinary mortality table for policies issued prior to the operative date of section 508.37, subsection 5, paragraph "a".

(2) The commissioners 1958 standard ordinary mortality table for such policies issued on or after the operative date of section 508.37, subsection 5, paragraph "c", provided that for any category of policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than six years younger than the actual age of the insured.

(3) For policies issued on or after the operative date of section 508.37, subsection 5, paragraph "c", any of the following:

(a) The commissioners 1980 standard ordinary mortality table.

(b) At the election of the company for any one or more specified plans of life insurance, the commissioners 1980 standard ordinary mortality table with ten-year select mortality factors.

(c) Any ordinary mortality table, adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

b. For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies, the following:

(1) For policies issued prior to the operative date of section 508.37, subsection 5, paragraph "b", the 1941 standard industrial mortality table.

(2) For policies issued on or after the operative date of section 508.37, subsection 5, paragraph "b", the commissioners 1961 standard industrial mortality table, or any industrial mortality table adopted after 1980 by the national association of insurance commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

c. For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

d. For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies, the group annuity mortality table for 1951, or a modification of the table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

e. For total and permanent disability benefits in or supplementary to ordinary policies or contracts, the following:

(1) For policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

(2) For policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either of the tables identified under subparagraph (1), or at the option of the company, the class (3) disability table (1926).

(3) For policies issued prior to January 1, 1961, the class (3) disability table (1926).

A table used under this paragraph "e" shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

f. For accidental death benefits in or supplementary to policies, the following:

(1) For policies issued on or after January 1, 1966, the 1959 accidental death benefits table, or any accidental death benefits table adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such policies.

(2) For policies issued on or after January 1, 1961, and prior to January 1, 1966, either of the tables identified under subparagraph (1), or at the option of the company, the inter-company double indemnity mortality table.

(3) For policies issued prior to January 1, 1961, the inter-company double indemnity mortality table.

A table used under this paragraph "f" shall be combined with a mortality table for calculating the reserves for life insurance policies.

g. For group life insurance, life insurance issued on the substandard basis, and other special benefits, tables approved by the commissioner.

4. COMPUTATION FOR MINIMUM STANDARDS FOR ANNUITIES. Except as provided in subsection 5, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subsection, and for all annuities and pure endowments purchased on or after the operative date of this subsection under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in subsections 6 and 7, and the following tables and interest rates:

a. For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in such contracts, both of the following:

(1) The 1971 individual annuity mortality table, or any modification of this table approved by the commissioner.

(2) Six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

b. For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in such contracts, both of the following:

(1) One of the following tables:

(a) The 1971 individual annuity mortality table.

(b) An individual annuity mortality table, adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such contracts.

(c) A modification of the tables identified in subparagraph subdivisions (a) and (b) approved by the commissioner.

(2) Seven and one-half percent interest.

c. For individual annuity and pure endowment contracts issued on or after January 1, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts, both of the following:

(1) One of the following tables:

(a) The 1971 individual annuity mortality table.

(b) An individual annuity mortality table adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such contracts.

(c) A modification of the tables identified in subparagraph subdivisions (a) and (b) approved by the commissioner.

(2) Five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure endowment contracts.

d. For all annuities and pure endowments purchased prior to January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, both of the following:

(1) The 1971 group annuity mortality table or any modification of this table approved by the commissioner.

(2) Six percent interest.

e. For all annuities and pure endowments purchased on or after January 1, 1980, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, both of the following:

(1) One of the following tables:

(a) The 1971 group annuity mortality table.

(b) A group annuity mortality table adopted after 1980 by the national association of insurance commissioners and approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for such annuities and pure endowments.

(c) A modification of the tables identified in subparagraph subdivisions (a) and (b) approved by the commissioner.

(2) Seven and one-half percent interest.

After July 1, 1973, a company may file with the commissioner a written notice of its election to comply with the provisions of this subsection after a specified date before January 1, 1979, which shall be the operative date of this section for such company, provided, if a company makes no election, the effective date of this section for a company is January 1, 1979.

5. COMPUTATION OF MINIMUM STANDARD BY CALENDAR YEAR OF ISSUE.

a. APPLICABILITY OF THIS SUBSECTION. The calendar year statutory valuation interest rates, as defined in this subsection, shall be used in determining the minimum standard for the valuation of all of the following:

(1) All life insurance policies issued in a particular calendar year, on or after the operative date of section 508.37, subsection 5, paragraph "c".

(2) All individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1995.

(3) All annuities and pure endowments purchased in a particular calendar year on or after January 1, 1995, under group annuity and pure endowment contracts.

(4) The net increase, if any, in a particular calendar year on or after January 1, 1995, in amounts held under guaranteed interest contracts.

b. CALENDAR YEAR STATUTORY VALUATION INTEREST RATES.

(1) The calendar year statutory valuation interest rates, referred to in this paragraph as "I", shall be determined as follows and the results rounded to the nearer one-quarter of one percent:

(a) For life insurance,

$$I \text{ equals } .03 + W(R1 - .03) + \frac{W}{2}(R2 - .09),$$

where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in paragraph "d" of this subsection, and W is the weighting factor defined in paragraph "c" of this subsection.

(b) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options,

I equals .03 + W(R − .03), where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in paragraph "d" of this subsection, and W is the weighting factor defined in paragraph "c" of this subsection.

(c) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph subdivision (b), the formula for life insurance stated in subparagraph subdivision (a) applies to annuities and guaranteed interest contracts with guarantee durations in excess of ten years, and the formula for single premium immediate annuities stated in subparagraph subdivision (b) applies to annuities and guaranteed interest contracts with guarantee durations of ten years or less.

(d) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subparagraph subdivision (b) applies.

(e) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in subparagraph subdivision (b) applies.

(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined under subparagraph (1), subparagraph subdivision (a) without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for the life insurance policies is equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980, using the reference interest rate defined in 1979, and shall be determined for each subsequent calendar year regardless of the operative date of section 508.37, subsection 5, paragraph "c".

c. WEIGHTING FACTORS.

(1) The weighting factors referred to in paragraph "b" are given in the following tables:

(a) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less	.50
More than 10, but not more than 20	.45
More than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(b) The weighting factors for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80.

(c) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in subparagraph subdivision (b), shall be as specified in subparagraph subdivision parts (i), (ii) and (iii) of this subparagraph subdivision, according to the rules and definitions in subparagraph subdivision parts (iv), (v), and (vi) of this subparagraph subdivision:

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

	Weighting Factor for Plan Type		
Guarantee Duration (Years)	A	B	C
5 or less	.80	.60	.50
More than 5, but not more than 10	.75	.60	.50
More than 10, but not more than 20	.65	.50	.45
More than 20	.45	.35	.35

(ii) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subparagraph subdivision part (i) of this subparagraph subdivision increased by:

Plan Type		
A	B	C
.15	.25	.05

(iii) For annuities and guaranteed interest contracts valued on an issue-year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the factors shown in subparagraph subdivision part (i) of this subparagraph subdivision or derived in subparagraph subdivision part (ii) of this subparagraph subdivision increased by:

Plan Type		
A	B	C
.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee durations in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) "Plan type", as used in subparagraph subdivision parts (i), (ii), and (iii) of this subparagraph subdivision, is defined as follows:

"Plan Type A": At any time, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or may withdraw funds without that adjustment but in installments over five years or more, or may withdraw funds as in immediate life annuity; or no withdrawal is permitted.

"Plan Type B": Before expiration of the interest rate guarantee, the policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or may withdraw funds without that adjustment but in installments over five years or more; or no withdrawal is permitted. At the end of interest rate guarantee, funds may be withdrawn without adjustment in a single sum or installments over less than five years.

"Plan Type C": The policyholder may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change-in-fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis. As used in this section, an issue-year basis of valuation refers to a valuation basis under which the interest rate used

to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change-in-fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

d. REFERENCE INTEREST RATE. The reference interest rate referred to in paragraph "b" is defined as follows:

(1) For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year next preceding the year of issue, of the monthly average of the composite yield on seasoned corporate bonds, as published by moody's investors service, inc.

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by moody's investors service, inc.

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph (2), with guarantee duration in excess of ten years, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by moody's investors service, inc.

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in subparagraph (2), with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by moody's investors service, inc.

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by moody's investors service, inc.

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, except as stated in subparagraph (2), the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by moody's investors service, inc.

e. ALTERNATIVE METHOD FOR DETERMINING REFERENCE INTEREST RATES. In the event that the monthly average of the composite yield on seasoned corporate bonds is no longer published by moody's investors service, inc., or in the event that the national association of insurance commissioners determines that the monthly average of the composite yield on seasoned corporate bonds as published by moody's investors service, inc. is no longer appropriate for the determination of the reference interest rate, an alternative method for determination of the reference interest rate, which is adopted by the national association of insurance commissioners and approved by rule adopted by the commissioner, may be substituted.

6. RESERVE VALUATION METHOD – LIFE INSURANCE AND ENDOWMENT BENEFITS.

a. Except as otherwise provided in subsections 7, 10, and 12, reserves calculated according to the commissioner's reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums, shall be the excess, if any, of the present value, at the date of valuation, of future

guaranteed benefits provided for by such policies, over the present value, at the date of valuation, of any future modified net premiums for such policies. The modified net premiums for such policy is the uniform percentage of the respective contract premiums for the benefits such that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the present value, at the date of valuation, of such benefits provided for by the policy and the excess of the amount determined in subparagraph (1) over the amount determined in subparagraph (2), as follows:

(1) A net level annual premium equal to the present value at the date of issue, of the benefits provided for after the first policy year, divided by the present value at the date of issue, of an annuity of one per annum payable on the first, and each subsequent, anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan for insurance of the same amount at an age one year more than the age of the insured at issue of the policy.

(2) A net one-year term premium for the benefits provided for in the first policy year.

b. However, for a life insurance policy issued on or after January 1, 1998, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such additional premium and which provides an endowment benefit or a cash surrender value or a combination of such benefit or value in an amount greater than the additional premium, the reserve according to the commissioner's reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such additional premium shall be, except as otherwise provided in subsection 10, the greater of the reserve as of such policy anniversary calculated as described in paragraph "a" and the reserve as of such policy anniversary calculated as described in paragraph "a", but with the following modifications:

(i) The value defined in paragraph "a" being reduced by fifteen percent of the amount of such excess first year premium.

(ii) All present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date.

(iii) The policy being assumed to mature on such date as an endowment.

(iv) The cash surrender value provided on such date being considered as an endowment benefit.

In making the above comparison the mortality and interest bases stated in subsections 4 and 5 shall be used.

c. Reserves according to the commissioner's reserve valuation method shall be calculated pursuant to a method consistent with this subsection for all of the following:

(1) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums.

(2) Group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code.

(3) Disability and accidental death benefits in all policies and contracts.

(4) All other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts.

7. RESERVE VALUATION METHOD — ANNUITY AND PURE ENDOWMENT BENEFITS. This subsection applies to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code.

Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

8. MINIMUM RESERVES.

a. A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, the operative date of section 508.37, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subsections 6, 7, 10, and 11, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

b. A company's aggregate reserves for all policies, contracts, and benefits shall not be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required by subsection 2.

9. OPTIONAL RESERVE CALCULATION. Reserves for all policies and contracts issued prior to the operative date of section 508.37, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required prior to July 1, 1994.

Reserves for any category of policies, contracts, or benefits, as established by the commissioner, issued on or after the operative date of section 508.37, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard as provided in this section, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits as provided in this section.

A company which at any time adopts a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard as provided in this section may adopt, with the approval of the commissioner, any lower standard of valuation, not to be lower than the minimum as provided in this section, provided, however, that, for purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by subsection 2 shall not be deemed to be the adoption of a higher standard of valuation.

10. RESERVE CALCULATION – VALUATION NET PREMIUM EXCEEDING THE GROSS PREMIUM CHARGE.

a. If in any contract year the gross premium charged by a life insurance company on a policy or contract is less than the valuation net premium for the policy or contract, as calculated by the method used in calculating the reserve for such policy or contract but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract is the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this section are those standards established in subsections 4 and 5.

b. However, for any life insurance policy issued on or after January 1, 1998, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value, or a combination of such benefit and value, in an amount greater than the excess premium, the provisions of paragraph "a" apply as if the method actually used in calculating the reserve for such policy is the method established in subsection 6, excluding paragraph "b" of that subsection. The minimum reserve of the policy at each policy anniversary shall be the greater of the minimum reserve calculated pursuant to subsection 6 and the minimum reserve calculated in accordance with this subsection.

11. RESERVE CALCULATION – INDETERMINATE PREMIUM PLANS. In the case of any plan of life insurance which provides for future premium determination, the amounts of such premium which are to be determined by the insurance company based on estimates of future experience, or in the case of any plan of life insurance or annuity, the minimum reserves of which cannot be determined by the methods established in subsections 6, 7, and 10, the reserves which are held under the plan must be appropriate in relation to the benefits and the pattern of premiums for that plan, and shall be computed by a method which is consistent with this section, as determined by rules adopted by the commissioner.

12. MINIMUM STANDARDS FOR HEALTH (DISABILITY, ACCIDENT, AND SICKNESS) PLANS. The commissioner shall adopt rules containing the minimum standards applicable to the valuation of health, disability, and sickness and accident plans.

Sec. 9. Section 513B.2, subsection 16, Code Supplement 1993, is amended to read as follows:

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 not less than two and not more than ~~twenty-five~~ fifty 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. 10. Section 513B.4, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. Notwithstanding subsection 1, there shall be no variance in premium rates for a basic or standard benefit plan offered pursuant to this chapter for health status or claim experience.

Sec. 11. Section 513B.4, subsection 2, unnumbered paragraph 2, Code Supplement 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

Case characteristics other than age, geographic area, family composition, and group size shall not be used by a small employer carrier without the prior approval of the commissioner.

Sec. 12. Section 513B.4, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Notwithstanding subsection 1, the commissioner, with the concurrence of the board of the Iowa small employer health reinsurance program established in section 513B.13, may by order reduce or eliminate the allowed rating bands provided under subsection 1, paragraphs "a", "b", and "c", or otherwise limit or eliminate the use of experience rating.

Sec. 13. Section 515A.13, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. PROHIBITED RELEASE. A person other than the commissioner or the commissioner's designee shall not release to another person, other than to the servicing insurer of the policy or to the commissioner or the commissioner's designee, experience, payroll, loss data, expiration date of a policy, or classification information without the prior written approval of the policy holder. A violation of this section shall be considered an unfair trade practice pursuant to chapter 507B.

Sec. 14. Section 521C.2, subsection 8, paragraph c, Code 1993, is amended to read as follows:

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

Sec. 15. Section 521C.11, Code 1993, is amended to read as follows:

521C.11 PENALTIES AND LIABILITIES.

1. A reinsurance intermediary~~, insurer, or reinsurer~~ or other person found by the commissioner, after a hearing conducted in accordance with chapter 17A, to ~~be in violation of~~ have not materially complied with a provision of this chapter is subject to one or more of the following:

a. For each separate violation, a civil penalty in an amount not exceeding ~~ten~~ five thousand dollars.

b. Revocation or suspension of the license of the reinsurance intermediary.

~~c. If a violation was committed by the reinsurance intermediary, a civil action brought by the commissioner seeking restitution by the reinsurance intermediary to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for the net losses incurred by the insurer or reinsurer attributable to the violation.~~

If the commissioner finds that such noncompliance has resulted in a loss or damage to the insurer or reinsurer, the commissioner may bring a civil action on behalf of the insurer or reinsurer, and the policyholders and creditors of the insurer or reinsurer, seeking the recovery of compensatory damages for the benefit of the insurer or reinsurer, and the policyholders and creditors of the insurer or reinsurer, or seeking other relief as appropriate.

If an order of rehabilitation or liquidation has been entered pursuant to chapter 507C, and the receiver appointed under the order determines that the reinsurance intermediary or any other person has not materially complied with a provision of this chapter and such noncompliance has resulted in a loss or damage to the insurer or reinsurer, the receiver may bring a civil action on behalf of the insurer or reinsurer seeking the recovery of damages for the benefit of the insurer or reinsurer, or seeking other appropriate sanction or relief.

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

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

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

Sec. 16. NEW SECTION. 521D.1 TITLE.

This chapter shall be known and may be cited as the "Disclosure of Material Transactions Act".

Sec. 17. NEW SECTION. 521D.2 REPORT.

1. An insurer domiciled in this state shall file a report with the commissioner disclosing material acquisitions and dispositions of assets, or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements unless such acquisitions and dispositions of assets, or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements have been submitted to the commissioner for review, approval, or information purposes pursuant to other provisions of this subtitle or pursuant to other requirements. The report shall be filed not later than fifteen days after the end of the calendar year in which the material acquisition or disposition of assets, or material nonrenewal, cancellation, or revision of ceded reinsurance agreements occurs.

2. The insurer shall also file a copy of the report required to be filed with the commissioner pursuant to subsection 1, including any exhibits or other attachments filed as part of the report, with the national association of insurance commissioners.

3. All reports obtained by or disclosed to the commissioner and the national association of insurance commissioners pursuant to this chapter are confidential and shall not be subject to

subpoena and shall not be made public by the commissioner, the national association of insurance commissioners, or any other person without the prior written consent of the insurer to which it pertains, unless the commissioner, after giving such insurer notice and providing an opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by the publication or disclosure of the report, in which event the commissioner may publish or disclose all or any part of the report as deemed appropriate.

Notwithstanding this subsection, the commissioner or the national association of insurance commissioners may provide the report to the insurance regulatory agencies of other states.

Sec. 18. NEW SECTION. 521D.3 REPORT OF ACQUISITION AND DISPOSITION OF ASSETS — INFORMATION REQUIRED — SCOPE.

1. An acquisition or disposition of assets need not be reported pursuant to section 521D.2 if the acquisition or disposition is not material. For purposes of this chapter, a material acquisition, or the aggregate of any series of related acquisitions, or a disposition, or the aggregate of any series of related dispositions, during any thirty-day period, is one that is nonrecurring, is not in the ordinary course of business, and involves more than five percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance division of the insurer's state of domicile.

2. For purposes of this chapter, an asset acquisition includes every purchase, lease, exchange, merger, consolidation, succession, or other acquisition, other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose. For purposes of this chapter, an asset disposition includes every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment, whether for the benefit of creditors of* otherwise, abandonment, destruction, or other disposition.

3. A report of a material acquisition or disposition of assets shall include all of the following:

a. Date of the transaction.

b. Manner of the acquisition or disposition.

c. Description of the assets involved.

d. Nature and amount of the consideration given or received.

e. Purpose of, or reason for, the transaction.

f. Manner by which the amount of consideration was determined.

g. Gain or loss recognized or realized as a result of the transaction.

h. Name or names of the person or persons from whom the assets were acquired or to whom they were disposed.

4. An insurer is required to report material acquisitions and dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or one hundred percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves, and such insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement, and the net income of the business not subject to the pooling arrangement represents less than five percent of the insurer's capital and surplus.

Sec. 19. NEW SECTION. 521D.4 REPORT OF NONRENEWAL, CANCELLATION, REVISION OF CEDED REINSURANCE AGREEMENTS — INFORMATION REQUIRED — SCOPE.

1. A nonrenewal, cancellation, or revision of a ceded reinsurance agreement need not be reported pursuant to section 521D.2 if the nonrenewal, cancellation, or revision is not material. For purposes of this chapter, a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement is one that does the following:

a. For property and casualty business including accident and health business when written as such, affects more than fifty percent of an insurer's ceded written premium on an annualized basis as indicated in the insurer's most recently filed statutory statement.

*The word "or" probably intended

b. For life, annuity, and accident and health business, affects more than fifty percent of the total reserve credit taken for business ceded on an annualized basis as indicated in the insurer's most recently filed statutory statement.

2. Notwithstanding subsection 1, a filing is not required if the insurer's ceded written premium represents, on an annualized basis, less than ten percent of direct plus assumed written premium, or the total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent of the statutory reserve requirement prior to any cession.

3. A report required to be filed pursuant to this chapter is to be filed regardless of who has initiated the nonrenewal, cancellation, or revision of the ceded reinsurance agreement whenever one or more of the following conditions exist:

a. The entire cession has been canceled, nonrenewed, or revised and ceded indemnity and loss adjustment expense reserves, after any nonrenewal, cancellation, or revision, represent less than fifty percent of the comparable reserves that would have been ceded had the nonrenewal, cancellation, or revision not occurred.

b. An authorized or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer.

c. Collateral requirements previously established for unauthorized reinsurers have been reduced.

Subject to the materiality criteria, for purposes of paragraphs "b" and "c", a report shall be filed if the result of the revision affects more than ten percent of the cession.

4. A report of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement required to be filed shall include all of the following:

a. The effective date of the nonrenewal, cancellation, or revision.

b. The description of the transaction including the identification of the initiator of the transaction.

c. The purpose of, or reason for, the transaction.

d. The identity of the replacement reinsurers, if applicable.

5. Insurers are required to report all material nonrenewals, cancellations, or revisions of ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes an intercompany pooling agreement or arrangement or a one hundred percent reinsurance agreement under which the ceding company has ceded substantially one hundred percent of its direct and assumed business to a pool. An insurer is deemed to have ceded substantially one hundred percent of its direct and assumed business to a pool if the insurer has less than one million dollars of total direct plus assumed written premiums during a calendar year that are not subject to the pooling agreement or arrangement and the net income of the business not subject to the pooling agreement or arrangement represents less than five percent of the insurer's capital and surplus. If a group of insurers reports on a consolidated basis, the report shall identify the individual insurers that are members of the group.

Sec. 20. Section 6 of this Act, which creates new section 505.21, relating to health care access, is effective January 1, 1995.

Approved May 13, 1994

CHAPTER 1177

SOLID WASTE

S.F. 2300

AN ACT requiring the environmental protection commission to codify the special waste authorization program and relating to solid waste.

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

Section 1. Section 455B.301A, subsection 1, Code 1993, is amended to read as follows:

1. The protection of the health, safety, and welfare of Iowans and the protection of the environment require the safe and sanitary disposal of solid wastes. An effective and efficient solid waste disposal program protects the environment and the public, and provides the most practical and beneficial use of the material and energy values of solid waste. While recognizing the continuing necessity for the existence of landfills, alternative methods of managing solid waste and a reduction in the reliance upon land disposal of solid waste are encouraged. In the promotion of these goals, the following waste management hierarchy in descending order of preference, is established as the solid waste management policy of the state:

a. Volume reduction at the source.

b. Recycling and reuse.

~~c. Combustion with energy recovery and refuse-derived fuel.~~

~~d. Combustion for volume reduction.~~

~~e. Disposal in sanitary landfills.~~

c. Other approved techniques of solid waste management including, but not limited to, combustion with energy recovery, combustion for waste disposal, and disposal in sanitary landfills.

Sec. 2. Section 455B.304, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 18. The commission shall adopt rules to establish a special waste authorization program. For purposes of this subsection, "special waste" means any industrial process waste, pollution control waste, or toxic waste which presents a threat to human health or the environment or a waste with inherent properties which make the disposal of the waste in a sanitary landfill difficult to manage. Special waste does not include domestic, office, commercial, medical, or industrial waste that does not require special handling or limitations on its disposal. Special waste does not include hazardous wastes which are regulated under the federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934, hazardous wastes as defined in section 455B.411, subsection 3, or hazardous wastes included in the list compiled in accordance with section 455B.464.

Sec. 3. Section 455B.305, subsection 6, Code 1993, is amended to read as follows:

6. Beginning July 1, 1992, the director shall not issue a permit for a sanitary landfill unless the sanitary landfill is equipped with a leachate control system. Beginning July 1, 1994, the director shall not renew or reissue a permit for an existing sanitary landfill unless the sanitary landfill is equipped with a leachate control system. During the period from July 1, 1992, through June 30, 1994, the director may require an existing sanitary landfill to install a leachate control system if leachate from the sanitary landfill is adversely impacting the public health or safety or the environment. During the period from July 1, 1992, through June 30, 1994, the director shall require an existing sanitary landfill to install a leachate control system if the sanitary landfill has not submitted a completed hydrogeological plan to the department. The director may exempt a permit applicant from these requirements if the director determines that certain conditions regarding, but not limited to, existing physical conditions, topography, soil, geology, and climate, are such that a leachate control system is unnecessary. The director may exempt a permit applicant from the requirements of this subsection if the permittee certifies that a risk assessment of the site indicates that a current or potential threat to environmental health does not exist such that an exposed individual has no greater than a one in one million risk of developing cancer and for noncarcinogens a hazard index of less than one. The

director shall use the United States environmental protection agency's risk assessment guidance for the superfund as a basis for determining whether to grant the exemption. The exemption in this subsection shall apply only to sanitary landfill cells in existence prior to July 1, 1992, or the vertical expansion above a cell in which waste was deposited prior to July 1, 1992. A sanitary landfill permittee desiring an exemption shall apply to the director and certify a completion date for a risk assessment study by December 1, 1994. If an exemption is not granted, or if the risk assessment study concludes that a leachate control system is required, a permittee shall certify a completion date and increments of progress for the installation of a leachate control system. The department shall retain the discretion to approve or disapprove a risk assessment study or a proposed completion date under this subsection. If a schedule for a risk assessment study or the installation of a leachate control system is approved by the department and satisfactory progress is being made toward completion of the study or the installation of the leachate control system, the permittee shall not be subject to penalties for failure to meet the requirements of this subsection.

Sec. 4. Section 455D.3, Code 1993, is amended to read as follows:

455D.3 GOAL.

1. YEAR 1994 AND 2000 GOALS. The goal of the state is to reduce the amount of materials in the waste stream, existing as of July 1, 1988, twenty-five percent by July 1, 1994, and fifty percent by July 1, 2000, through the practice of waste volume reduction at the source and through recycling. For the purposes of this section, "waste stream" means the disposal of solid waste as "solid waste" is defined in section 455B.301. ~~In determination of the reduction level of the waste stream, it shall be considered that each person currently generates three and one-half pounds of waste per day, and that this amount shall be reduced by the percentages indicated in order to preserve the health and safety of all Iowans.~~

Notwithstanding section 455D.1, subsection 6, facilities which employ combustion of solid waste with energy recovery and refuse-derived fuel, which are included in an approved comprehensive plan, and which were in operation prior to July 1, 1989, may include these processes in the definition of recycling for the purpose of meeting the state goal if at least thirty-five percent of the waste reduction goal, required to be met by July 1, 2000, pursuant to this section, is met through volume reduction at the source and recycling and reuse, as established pursuant to section 455B.301A, subsection 1, paragraphs "a" and "b".

2. PROJECTED WASTE STREAM — YEAR 2000. A planning area may request the department to allow the planning area to project the planning area's waste stream for the year 2000 for purposes of meeting the year 2000 fifty percent waste volume reduction and recycling goals required by this section. The department shall make a determination of the eligibility to use this option based upon the annual tonnage of solid waste processed by the planning area and the population density of the area the planning area serves. If the department agrees to allow the planning area to make year 2000 waste stream projections, the planning area shall calculate the year 2000 projections and submit the projections to the department for approval. The planning area shall use data which is current as of July 1, 1994, and shall take into account population, employment, and industrial changes and documented diversions due to existing programs. The planning area shall use the departmental methodology to calculate the tonnage necessary to be diverted from landfills in order to meet the year 2000 fifty percent waste volume reduction and recycling goals required by this section. Once the department approves the year 2000 projections, the projections shall not be changed prior to the year 2001.

3. DEPARTMENTAL MONITORING.

a. By October 31, 1994, a planning area shall submit to the department, a solid waste abatement table which is updated through June 30, 1994. By April 1, 1995, the department shall report to the general assembly on the progress that has been made by each planning area on attainment of the July 1, 1994, twenty-five percent goal.

If at any time the department determines that a planning area has met or exceeded the twenty-five percent goal, a planning area shall subtract twenty-five cents from the total amount of the tonnage fee imposed pursuant to section 455B.310, subsection 2, paragraph "a". The

reduction in tonnage fees pursuant to this paragraph shall be taken from that portion of the tonnage fees which would have been allocated for landfill alternative grants pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (9).

If the department determines that a planning area has failed to meet the July 1, 1994, twenty-five percent goal, the planning area shall, at a minimum, implement the solid waste management techniques as listed in subsection 4. Evidence of implementation of the solid waste management techniques shall be documented in subsequent comprehensive plans submitted to the department.

b. If at any time the department determines that a planning area has reduced the amount of materials in the waste stream, existing as of July 1, 1988, by thirty-eight percent, as indicated in a solid waste abatement table submitted by the planning area, the planning area shall subtract twenty-five cents from the total amount of the tonnage fee imposed pursuant to section 455B.310, subsection 2, paragraph "a". This amount shall be in addition to any amounts subtracted pursuant to paragraph "a". The reduction in tonnage fees pursuant to this paragraph shall be taken from that portion of the tonnage fees which would have been allocated for landfill alternative grants pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (9).

c. By October 31, 2000, a planning area shall submit to the department, a solid waste abatement table which is updated through June 30, 2000. By April 1, 2001, the department shall report to the general assembly on the progress that has been made by each planning area on attainment of the July 1, 2000, fifty percent goal.

If at any time the department determines that a planning area has met or exceeded the fifty percent goal, the planning area shall subtract fifty cents from the total amount of the tonnage fee imposed pursuant to section 455B.310, subsection 2, paragraph "a". This amount shall be in addition to any amounts subtracted pursuant to paragraphs "a" and "b". The reduction in tonnage fees pursuant to this paragraph shall be taken from that portion of the tonnage fees which would have been allocated to landfill alternative grants pursuant to section 455E.11, subsection 2, paragraph "a", subparagraph (9).

4. SOLID WASTE MANAGEMENT TECHNIQUES. A planning area that fails to meet the twenty-five percent goal shall implement the following solid waste management techniques:

a. Remit fifty cents per ton to the department, as of July 1, 1995. The funds shall be deposited in the solid waste account under section 455E.11, subsection 2, paragraph "a", to be used in accordance with section 455E.11, subsection 2, paragraph "a", subparagraph (9). Moneys under this paragraph shall be remitted until such time as evidence of attainment of the twenty-five percent goal is documented in subsequent comprehensive plans submitted to the department.

b. Notify the public of the planning area's failure to meet the waste volume reduction goals of this section, utilizing standard language developed by the department for that purpose.

c. Develop draft ordinances which shall be used by local governments for establishing collection fees that are based on volume or on the number of containers used for disposal by residents.

d. Conduct an educational and promotional program to inform citizens of the manner and benefits of reducing, reusing, and recycling materials and the procurement of products made with recycled content. The program shall include the following:

(1) Targeted waste reduction and recycling education for residents, including multifamily dwelling complexes having five or more units.

(2) An intensive one day seminar for the commercial sector regarding the benefits of and opportunities for waste reduction and recycling.

(3) Promotion of recycling through targeted community and media events.

(4) Recycling notification and education packets to all new residential, commercial, and institutional collection service customers that include, at a minimum, the manner of preparation of materials for collection, and the reasons for separation of materials for recycling.

Sec. 5. Section 455E.11, subsection 2, paragraph a, subparagraph (9), Code Supplement 1993, is amended to read as follows:

(9) One dollar per ton from the fees imposed under section 455B.310 for the fiscal year beginning July 1, 1990, and thereafter shall be used by the department to develop and implement demonstration projects for landfill alternatives to solid waste disposal including recycling programs. The first fifty thousand dollars of moneys allocated to the department pursuant to this subparagraph shall be used for administration of the special waste authorization program established pursuant to section 455B.304, subsection 18. Of the remaining moneys, sixty-five thousand dollars shall be allocated to the waste management assistance division of the department to be used for the by-products and waste search service at the university of northern Iowa. The by-products and waste search service at the university of northern Iowa shall cooperate with Iowa state university in waste exchange activities.

Sec. 6. ADDITIONAL POSITION. Notwithstanding the full-time equivalent position limitations in effect for the department of natural resources for fiscal year beginning July 1, 1994, and ending June 30, 1995, the environmental protection division of the department of natural resources may employ one additional full-time equivalent position to administer the special waste authorization program established pursuant to section 455B.304, subsection 18.

Sec. 7. RULES. The commission shall adopt rules to establish a special waste authorization program. The rules shall be effective by December 31, 1994.

Sec. 8. EFFECTIVE DATE. Section 3 of this Act, being deemed of immediate importance, takes effect upon enactment. The remainder of this Act takes effect on July 1, 1994.

Approved May 13, 1994

CHAPTER 1178

POLITICAL YARD SIGNS

H.F. 455

AN ACT relating to placement of political yard signs on agricultural land, property leased to a corporation by a private individual, or property leased by a corporation to a private individual.

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

Section 1. Section 56.14, Code 1993, is amended to read as follows:

56.14 POLITICAL ADVERTISEMENTS.

A person who causes the publication or distribution of published material ~~after July 1, 1984,~~ designed to promote or defeat the nomination or election of a candidate for public office or the passage of a constitutional amendment or public measure shall include conspicuously on the published material the identity and address of the person responsible for the material. If the person responsible is an organization, the name of one officer of the organization shall appear on the material. However, if the organization is a committee which has filed a statement of organization under this chapter, only the name of the committee is required to be included on the published material. This section does not apply to the editorials or news articles of a newspaper or magazine which are not political advertisements. For the purpose of this section, "published material" means any newspaper, magazine, shopper, outdoor advertising facility, poster, ~~yard sign including hand lettered signs,~~ direct mailing, brochure, or any other form of printed general public political advertising; however, the identification need not be conspicuous on posters. ~~This section requires that the identification on yard signs be in letters at least one inch high; however, if the yard sign is authorized by the candidate's committee or the candidate, no identification is required by this section.~~ This section does not apply to yard

signs, bumper stickers, pins, buttons, pens, matchbooks, and similar small items upon which the inclusion of the disclaimer would be impracticable or to published material which is subject to federal regulations regarding a disclaimer requirement. Yard signs shall not be placed on any property which adjoins a city, county, or state roadway sooner than forty-five days preceding a primary or general election and shall be removed within seven days after the primary or general election, in which the name of the particular candidate or ballot issue described on the yard sign appears on the ballot. Yard signs are subject to removal by highway authorities as provided in section 319.13. The placement or erection of yard signs shall be exempt from the requirements of chapter 480. Notice may be provided to the chairperson of the appropriate county central committee if the highway authorities are unable to provide notice to the candidate, candidate's committee, or political committee regarding the yard sign. This section does not prohibit the placement of yard signs on agricultural land owned by individuals or by a family farm operation as defined in section 9H.1, subsections 8, 9, and 10; does not prohibit the placement of yard signs on property owned by private individuals who have rented or leased the property to a corporation, if the prior written permission of the property owner is obtained; and does not prohibit the placement of yard signs on residential property owned by a corporation but rented or leased to a private individual if the prior permission of the renter or lessee is obtained. For the purposes of this chapter, "agricultural land" means agricultural land as defined in section 9H.1.

Sec. 2. Section 56.15, subsection 4, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not prohibit a family farm corporation, as defined in section 9H.1, from placing a yard sign on agricultural land, and does not prohibit the placement of yard signs, with the prior written permission of the individual property owner, on property rented or leased by a corporation from private individuals, subject to the requirements of section 56.14. This section also does not prohibit the placement of a yard sign on residential property that is owned by a corporation, but rented or leased to a private individual, if the prior permission of the renter or lessee is obtained.

Approved May 13, 1994

CHAPTER 1179

REAPPORTIONMENT, REDISTRICTING, AND REPRECINCTING

H.F. 2366

†**AN ACT** relating to reapportionment, redistricting, and reprecincting by certain jurisdictions.

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

Section 1. Section 42.3, subsections 2 and 3, Code 1993, are amended to read as follows:

2. If the bill embodying the plan submitted by the legislative service bureau under subsection 1 fails to be approved by a constitutional majority in either the senate or the house of representatives, the secretary of the senate or the chief clerk of the house, as the case may be, shall at once transmit to the legislative service bureau information which the senate or house may direct regarding reasons why the plan was not approved. The legislative service bureau shall prepare a bill embodying a second plan of legislative and congressional districting prepared in accordance with section 42.4, and taking into account the reasons cited by the senate or house of representatives for its failure to approve the plan insofar as it is possible to do so within the requirements of section 42.4. If a second plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief

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

clerk of the house of representatives not later than May 1 of the year ending in one, or ~~fourteen~~ twenty-one days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 1, whichever date is later. It is the intent of this chapter that, if it is necessary to submit a bill under this subsection, the bill be brought to a vote not less than seven days after the bill is printed and made available to the members of the general assembly, in the same manner as prescribed for the bill required under subsection 1.

3. If the bill embodying the plan submitted by the legislative service bureau under subsection 2 fails to be approved by a constitutional majority in either the senate or the house of representatives, the same procedure as prescribed by subsection 2 shall be followed. If a third plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief clerk of the house of representatives not later than June 1 of the year ending in one, or ~~fourteen~~ twenty-one days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 2, whichever date is later. It is the intent of this chapter that, if it is necessary to submit a bill under this subsection, the bill be brought to a vote within the same time period after its delivery to the secretary of the senate and the chief clerk of the house of representatives as is prescribed for the bill submitted under subsection 2, but shall be subject to amendment in the same manner as other bills.

Sec. 2. Section 42.3, subsection 4, paragraph b, Code 1993, is amended to read as follows:

b. If the population data for legislative districting which the United States census bureau is required to provide this state under United States Pub. L. 94-171 and, if used by the legislative service bureau, the corresponding topologically integrated geographic encoding and referencing data file for that population data, is not available to the legislative service bureau on or before February 1 of the year ending in one, the dates set forth in this section shall be extended by a number of days equal to the number of days after February 1 of the year ending in one that the federal census population data and the topologically integrated geographic encoding and referencing data file for legislative districting becomes available.

Sec. 3. Section 42.4, subsection 8, Code 1993, is amended to read as follows:

8. Each bill embodying a plan drawn under this section shall include provisions for election of senators to the general assemblies which take office in the years ending in three and five, which shall be in conformity with article III, section 6 of the Constitution of the State of Iowa. With respect to any plan drawn for consideration in the year ~~1991~~ 2001, those provisions shall be substantially as follows:

a. Each ~~even-numbered~~ odd-numbered senatorial district shall elect a senator in ~~1992~~ 2002 for a four-year term commencing in January ~~1993~~ 2003. If an incumbent senator who was elected to a four-year term which commenced in January ~~1991~~ 2001, or was subsequently elected to fill a vacancy in such a term, is residing in an ~~even-numbered~~ odd-numbered senatorial district on ~~March 13, 1992~~ February 1, 2002, that senator's term of office shall be terminated on January 1, ~~1993~~ 2003.

b. Each ~~odd-numbered~~ even-numbered senatorial district shall elect a senator in ~~1994~~ 2004 for a four-year term commencing in January ~~1995~~ 2005.

(1) If one and only one incumbent state senator is residing in an ~~odd-numbered~~ even-numbered senatorial district on ~~March 13, 1992~~ February 1, 2002, and that senator meets all of the following requirements, the senator shall represent the district in the senate for the ~~Seventy-fifth~~ Eightieth General Assembly:

(a) The senator was elected to a four-year term which commenced in January ~~1991~~ 2001 or was subsequently elected to fill a vacancy in such a term.

(b) The senatorial district in the plan which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the ~~odd-numbered~~ even-numbered senatorial district in which the senator resides on ~~March 13, 1992~~ February 1, 2002, or is contiguous to such ~~odd-numbered~~ even-numbered senatorial district and the senator's

declared residence as of February 1, 2002, was within the district from which the senator was last elected. Areas which meet only at the points of adjoining corners are not contiguous.

The secretary of state shall prescribe a form to be completed by all senators to declare their residences as of February 1, 2002. The form shall be filed with the secretary of state no later than five p.m. on February 1, 2002.

(2) Each ~~odd-numbered~~ even-numbered senatorial district to which subparagraph (1) of this paragraph is not applicable shall elect a senator in ~~1992~~ 2002 for a two-year term commencing in January ~~1993~~ 2003. However, if more than one incumbent state senator is residing in an even-numbered senatorial district on February 1, 2002, and, on or before February 15, 2002, all but one of the incumbent senators resigns from office effective no later than January 1, 2003, the remaining incumbent senator shall represent the district in the senate for the Eighty-eighth General Assembly. A copy of the resignation must be filed in the office of the secretary of state no later than five p.m. on February 15, 2002.

Sec. 4. Section 49.3, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Election precincts shall be drawn by the county board of supervisors or the temporary county redistricting commission in all unincorporated portions of each county, and by the city council of each city in which it is necessary or deemed advisable to establish more than one precinct. Precincts established as provided by this chapter shall be used for all elections, except where temporary merger of established precincts is specifically permitted by law for certain elections, and no political subdivision shall concurrently maintain different sets of precincts for use in different types of elections. Election precincts shall be drawn so that:

Sec. 5. Section 49.3, Code 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 3. Precincts established after the effective date of this Act shall be composed of contiguous territory within a single county. The boundaries of all precincts shall follow the boundaries of areas for which official population figures are available from the most recent federal decennial census.

NEW SUBSECTION. 4. All election districts, including city wards and county supervisor districts, shall be drawn according to the following standards:

a. All boundaries, except for supervisor districts for counties using supervisor representation plan "two" pursuant to section 331.209, shall follow precinct boundaries.

b. All districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of districts to be established into the population of the city or county.

c. All districts shall be composed of contiguous territory as compact as practicable.

d. Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

e. Cities shall not be divided into two or more county supervisor districts unless the population of the city is greater than the ideal size of a district. Cities shall be divided into the smallest number of county supervisor districts possible.

Sec. 6. Section 49.4, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Where action by the board of supervisors is necessary or deemed advisable by the board of supervisors or the temporary county redistricting commission, the boundaries of precincts shall be definitely fixed by ordinance. A public hearing shall be held before final action is taken to adopt changes in the precinct boundaries. Notice of the date, time, and place of the hearing shall be given as provided in chapter 21. In the absence of contrary action by the board of supervisors or the temporary county redistricting commission, each civil township which does not include any part of a city of over two thousand population, and the portion of each civil township containing any such city which lies outside the corporate limits of that city or those cities, shall constitute an election precinct. If no action is necessary to change the county election precincts, the board of supervisors shall certify the retained boundaries to the state commissioner, as required by section 49.7.

Sec. 7. Section 49.5, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

The council of a city where establishment of more than one precinct is necessary or deemed advisable shall at the time required by law, ~~by ordinance definitely fixing the boundaries,~~ divide the city into ~~such~~ the number of election precincts as will best serve the convenience of the voters. As used in this section, the term "the convenience of the voters" refers to, but is not necessarily limited to, the use of precinct boundaries which can be readily described to and identified by voters and for which there is ease of access by voters to their respective precinct polling places by reasonably direct routes of travel.

The precinct boundaries shall conform to section 49.3 and shall be described in an ordinance adopted by the council within the time required by section 49.7. Before final adoption of any change in election precinct boundaries pursuant to this section or section 49.6, the council shall permit the commissioner not less than seven and not more than ten days time to offer comments on the proposed reprecincting. A public hearing shall be held before final adoption of the ordinance. Notice of the date, time, and place of the hearing shall be given as provided in chapter 21.

Sec. 8. Section 49.5, subsections 1, 2, and 3, Code Supplement 1993, are amended by striking the subsections.

Sec. 9. Section 49.6, Code 1993, is amended to read as follows:

49.6 POWER TO COMBINE TOWNSHIP AND CITY PRECINCTS.

Election precincts composed partially of unincorporated territory and partially of all or any part of a city may be established within a single county in any manner which is not contrary to section 49.3 ~~and is~~. An agreement mutually satisfactory to the board of supervisors or the temporary county redistricting commission and the city council of the city involved shall be adopted and a copy of the agreement shall be submitted to the state commissioner as part of the certification of precinct boundaries required by section 49.7.

Sec. 10. Section 49.7, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

49.7 REPRECINCTING SCHEDULE AND FILING REQUIREMENTS.

Where reprecincting is necessary, city councils and county boards of supervisors or the temporary county redistricting commission shall make any necessary changes in precincts as soon as possible after the redistricting of congressional and legislative districts becomes law.

City councils shall complete any changes in precinct and ward boundaries necessary to comply with section 49.3 and 49.5 not later than sixty days after the redistricting of congressional and legislative districts becomes law, or September 1 of the year immediately following each year in which the federal decennial census is taken, whichever is later. Different compliance dates may be set by the general assembly by joint resolution.

County boards of supervisors or the temporary county redistricting commission shall complete any changes in precinct and supervisor district boundaries necessary to comply with sections 49.3, 49.4, and 331.209 not later than ninety days after the redistricting of congressional and legislative districts becomes law, or October 15 of the year immediately following each year in which the federal decennial census is taken, whichever is later. Different compliance dates may be set by the general assembly by joint resolution.

Each county board of supervisors or the temporary county redistricting commission and city council shall immediately notify the state commissioner and the commissioner when the boundaries of election precincts are changed, and shall provide a map showing the new boundary lines. Each county board or the temporary county redistricting commission and city council shall certify to the state commissioner the populations of the new election precincts or retained election precincts as determined by the latest federal decennial census. Materials filed with the state commissioner shall be postmarked no later than the deadline specified in this section.

If the state commissioner determines that a county board or the temporary county redistricting commission or city council has failed to make the required changes by the dates specified by this section, the state commissioner shall make or cause to be made the necessary changes as soon as possible. The state commissioner shall assess to the county or city, as the case may be, the expenses incurred in making the necessary changes. The state commissioner may request the services of personnel and materials available to the legislative service bureau to assist the state commissioner in making required changes in election precincts which become the state commissioner's responsibility.

Precinct boundaries shall become effective on January 15 of the second year following the year in which the census was taken and shall be used for all subsequent elections. Precinct boundaries drawn by the state commissioner shall be incorporated into the ordinances of the city or county.

Changes made to precincts in years other than the year following the year in which the federal decennial census is taken shall be filed with the state commissioner as soon as possible.

Sec. 11. Section 49.8, subsection 4, Code 1993, is amended to read as follows:

4. When the boundaries of a county supervisor, city council, or school director district, or any other district from which one or more members of any public representative body other than the general assembly are elected by the voters thereof, are changed by annexation, ~~reprecincting~~ or other means other than reprecincting, the change shall not result in the term of any officer elected from the former district being terminated before or extended beyond the expiration of the term to which the officer was last elected, except as provided under section 275.23A and section 331.209, subsection 1. If more than one incumbent officeholder resides in a district redrawn during reprecincting, their terms of office shall expire after the next election in the political subdivision.

Sec. 12. Section 49.8, subsection 4, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. When a vacancy occurs in the office of county supervisor, city council, or school director following the effective date of new district boundaries, the vacancy shall be filled using the new boundaries.

Sec. 13. Section 49.11, unnumbered paragraph 1, Code Supplement 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

The board of supervisors or the temporary county redistricting commission or city council shall number or name the precincts established by the supervisors or council pursuant to sections 49.3, 49.4, and 49.5. The boundaries of the precincts shall be recorded in the records of the board of supervisors, temporary county redistricting commission, or city council, as the case may be.

The board of supervisors or city council shall publish notice of changes in the county or city precinct boundaries in a newspaper of general circulation published in the county or city once each week for three consecutive weeks. The series of publications shall be made after the changes in the precincts have been approved by the state commissioner of elections. The last of the three publications shall be made no later than thirty days before the next general election. A map showing the new boundaries may be used. No publication is necessary if no changes were made.

The precincts established pursuant to section 49.7 shall not be changed except in the manner provided by law. However, for any election other than the primary or general election or any special election held under section 69.14, the county commissioner of elections may:

Sec. 14. Section 260C.13, subsection 1, Code 1993, is amended to read as follows:

1. The board of a merged area may change the number of directors on the board and shall make corresponding changes in the boundaries of director districts. Changes shall be completed not later than ~~July 1 of a fiscal year~~ June 1 for the regular school election to be held the next following September. As soon as possible after adoption of the boundary changes,

notice of changes in the director district boundaries shall be submitted by the merged area to the county commissioner of elections in all counties included in whole or in part in the merged area.

Sec. 15. Section 260C.13, subsections 3 and 4, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

3. Boundary lines of director districts shall be drawn according to the following standards:

a. All boundaries shall follow precinct boundaries or school director district boundaries unless a merged area director district boundary follows the boundary of a school district which divides one or more election precincts.

b. To the extent possible in order to comply with paragraph "a", all districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of districts to be established into the population of the merged area.

c. All districts shall be composed of contiguous territory as compact as practicable.

d. Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

e. Cities shall not be divided into two or more districts unless the population of the city is greater than the ideal size of a district. Cities shall be divided into the smallest number of districts possible.

4. If more than one incumbent office holder resides in a district redrawn during reprecincting, their terms of office expire after the next regular school election.

Sec. 16. Section 275.12, subsection 3, Code Supplement 1993, is amended to read as follows:

3. If the petition proposes the division of the school district into director districts, the boundaries of ~~such~~ the proposed director districts shall be described in the petition and shall be drawn according to the standards described in section 275.23A, subsection 1.

Sec. 17. Section 275.23A, subsections 1 and 2, Code 1993, are amended by striking the subsections and inserting in lieu thereof the following:

1. School districts which have directors who represent director districts as provided in section 275.12, subsection 2, paragraphs "d" and "e" shall be divided into director districts according to the following standards:

a. All director district boundaries shall follow the precinct boundaries of areas for which official population figures are available from the most recent federal decennial census and, wherever possible, shall follow precinct boundaries.

b. To the extent possible in order to comply with paragraph "a", all director districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of districts to be established into the population of the school district.

c. All districts shall be composed of contiguous territory as compact as practicable unless the school district is composed of marginally adjacent territory. A school district which is composed of marginally adjacent territory shall have director districts composed of contiguous territory to the extent practicable.

d. Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

e. Cities shall not be divided into two or more districts unless the population of the city is greater than the ideal size of a director district. Cities shall be divided into the smallest number of director districts possible.

2. Following each federal decennial census the school board shall determine whether the existing director district boundaries meet the standards in subsection 1 according to the most recent federal decennial census. If necessary, the board of directors shall redraw the director district boundaries. The director district boundaries shall be described in a resolution adopted

by the school board. The resolution shall be adopted no earlier than November 15 of the year immediately following the year in which the federal decennial census is taken nor later than April 30 of the second year immediately following the year in which the federal decennial census is taken. A copy of the plan shall be filed with the area education agency administrator of the area education agency in which the school's electors reside.

Sec. 18. Section 275.23A, subsections 3 and 4, Code 1993, are amended to read as follows:

3. The school board shall notify the state commissioner of elections and the county commissioner of elections of each county in which a portion of the school district is located when the boundaries of director districts are changed. The notices of changes submitted to the state commissioner shall be postmarked no later than the deadline for adoption of the resolution under subsection 2. The board shall provide the commissioners with maps showing the new boundaries and shall also certify to the state commissioner the populations of the new director districts as determined under the latest federal decennial census. If, following a federal decennial census a school district elects not to redraw director districts under this section, the school board shall so certify to the state commissioner of elections, and the school board shall also certify to the state commissioner the populations of the retained director districts as determined under the latest federal decennial census. ~~Upon failure of a district board to make the required changes by the dates established under this section as determined by the state commissioner of elections~~ If the state commissioner determines that a district board has failed to make the required changes by the dates specified by this section, the state commissioner of elections shall make or cause to be made the necessary changes as soon as possible~~, and~~. The state commissioner shall assess any expenses incurred to the school district. The state commissioner of elections may request the services of personnel of and materials available to the legislative service bureau to assist the state commissioner in making any required boundary changes.

4. If more than one incumbent director~~, whose term extends beyond the organizational meeting of the board of directors after the regular school election following the adoption of the redrawn districts, reside~~ resides in a redrawn director district, the terms of office of the affected directors expire at the organizational meeting of the board of directors following the next regular school election following the adoption of the redrawn districts.

Sec. 19. Section 331.203, subsection 2, paragraph b, Code 1993, is amended to read as follows:

b. If plan "two" or plan "three" as defined in section 331.206 is in effect, the ~~board~~ temporary county redistricting commission shall divide the county into five equal-population districts by December 15 of the year preceding the year of the next general election and at that general election, five board members shall be elected, two for initial terms of two years and three for four-year terms. The districts shall be drawn in the manner provided under sections 331.209 and 331.210. The terms of the three incumbent supervisors shall expire on the date that the five-member board becomes effective.

Sec. 20. Section 331.204, subsection 3, Code 1993, is amended to read as follows:

3. At the next general election following the one at which the proposition to reduce the membership of the board to three is approved, the membership of the board shall be elected according to the supervisor representation plan in effect in the county. If the supervisor representation plan includes equal-population districts, the districts shall be designated by December 15 of the year preceding the year of the next general election by the temporary county redistricting commission. The districts shall be drawn in the manner provided under sections 331.209 and 331.210. One member of the board shall be elected to a two-year term and the remaining two members shall be elected to four-year terms. The length of the term for which a person is a candidate and the date when the term begins shall be indicated on the ballot.

Sec. 21. Section 331.209, subsections 1 and 5, Code 1993, are amended to read as follows:

1. ~~Before December 15 of the nonelection year following each federal decennial census~~ Not later than ninety days after the redistricting of congressional and legislative districts becomes

law, or October 15 of the year immediately following each year in which the federal decennial census is taken, whichever is later, the ~~board~~ temporary county redistricting commission shall divide the county into a number of supervisor districts corresponding to the number of supervisors in the county. However, if the plan is selected pursuant to section 331.207, the ~~board~~ temporary county redistricting commission shall divide the county before ~~March~~ February 15 of the election year. The supervisor districts shall be drawn, to the extent applicable, in compliance with the redistricting standards provided for senatorial and representative districts in section 42.4, and if a supervisor redistricting plan is challenged in court, the requirement of justifying any variance in excess of one percent contained in section 42.4, subsection 1, paragraph "c" applies to the board. If the ~~board~~ temporary county redistricting commission adopts a supervisor redistricting plan with a variance in excess of one percent, the board shall publish the justification for the variance in one or more official newspapers as provided in chapter 349 within ten days after the action is taken. If more than one incumbent supervisor resides in the same supervisor district after the districts have been redrawn following the federal decennial census, the terms of office of those supervisors shall expire on the first day of January that is not a Sunday or a holiday following the next general election.

5. Each ~~county board~~ temporary county redistricting commission shall notify the state commissioner of elections when the boundaries of supervisor districts are changed, shall provide a map delineating the new boundary lines, and shall certify to the state commissioner of elections the populations of the new supervisor districts as determined under the latest federal decennial census. Upon failure of a ~~county board~~ temporary county redistricting commission to make the required changes by the dates specified by this section and sections 331.203 and 331.204 as determined by the state commissioner of elections, the state commissioner of elections shall make or cause to be made the necessary changes as soon as possible, and shall assess to the county the expenses incurred in so doing. The state commissioner of elections may request the services of personnel and materials available to the legislative service bureau to assist the state commissioner in making required changes in supervisor district boundaries which become the state commissioner's responsibility.

Sec. 22. Section 331.209, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 23. NEW SECTION. 331.210A TEMPORARY COUNTY REDISTRICTING COMMISSION.

1. APPOINTMENT OF MEMBERS.

a. Not later than May 15 of each year ending in one, a temporary county redistricting commission shall be established as provided by this section for counties which have either plan "two" or plan "three" supervisor representation plans. If a county has either plan "two" or plan "three" supervisor representation plans and the number of members of the board is increased or decreased under section 331.203 or 331.204, the temporary county redistricting commission shall be established by May 15 of the year preceding the year of the next general election.

b. The board shall determine the size of the membership of the temporary county redistricting commission which may be three, five, or seven in number. The minimum number of members constituting a majority of the membership shall be appointed by the majority party members of the board. The remaining number of members of the temporary county redistricting commission shall be appointed by the minority party members of the board. If the members of the board are all members of one political party or if the minority members of the board are not all members of only one political party, the minority representation of the temporary county redistricting commission shall be appointed by the chair of the county central committee for the party, other than the party of the majority members of the board, which received the most votes in that county cast for its candidate for president of the United States or for governor at the last preceding general election, as the case may be. If that party's county central committee has no chair, the appointments shall be made by the chair of that party's state central committee.

c. A member of the county board of supervisors may be appointed as a member of the temporary county redistricting commission. No person shall be appointed to the temporary county redistricting commission who is not an eligible elector of the county at the time of appointment.

d. A vacancy on the temporary county redistricting commission shall be filled by the initial selecting authority within fifteen days after the vacancy occurs.

e. Members of the temporary county redistricting commission shall receive a per diem as specified by the board, travel expenses at the rate provided by section 70A.9, and reimbursement for other necessary expenses incurred in performing their duties.

f. Each of the appointing authorities shall certify to the county commissioner of elections the authority's appointment of a person to serve on the temporary county redistricting commission.

2. ADOPTION OF PLANS.

a. The temporary county redistricting commission, upon appointment, shall acquire official census population data from the latest federal decennial census including the corresponding census maps and shall use that information in drawing and adopting the county's supervisor districting plan. The commission shall draw the plan, to the extent applicable, in accordance with section 42.4. If the county has a plan "three" supervisor representation plan, the temporary county redistricting commission shall also draw and adopt the county's corresponding precinct plan in accordance with sections 49.3, 49.4, and 49.6.

b. After the temporary county redistricting commission has finished its preliminary proposed county supervisor districting plan and corresponding precinct plan, if applicable, the commission shall at the earliest feasible time make available to the public all of the following information:

(1) Copies of the legal description of the plans.

(2) Maps illustrating the plans.

(3) A summary of the standards prescribed by law for development of the plans.

(4) A statement of the population of each district included in the plan, and the relative deviation of each district population from the ideal district population.

(5) A statement of the population of each precinct, if applicable.

c. Upon the completion of the county's preliminary proposed plans, the temporary county redistricting commission shall do all of the following:

(1) As expeditiously as possible, schedule and conduct at least one public hearing on the proposed plans.

(2) Allow members of the public to present alternative plans at the public hearing.

(3) Following the hearings, promptly prepare and make available to the public a report summarizing information and testimony received by the temporary county redistricting commission in the course of the hearings. The report shall include any comments and conclusions which its members deem appropriate regarding the information and testimony received at the hearings, or otherwise presented to the temporary county redistricting commission.

d. After the requirements of paragraphs "a" through "c" have been met, the temporary county redistricting commission shall adopt a supervisor district plan and corresponding precinct plan, if applicable, and shall submit the plan to the board of supervisors for their approval. Prior to adoption of a plan by the commission, any member of the temporary county redistricting commission may submit precinct or district plans to the commission for a vote, either independently or as an amendment to a plan presented by other members of the commission.

The board of supervisors shall review the plan submitted by the temporary county redistricting commission and shall approve or reject the plan. If the plan is rejected, the board shall give written reasons for the rejection of the plan and shall direct the commission to prepare a second plan. The board of supervisors may amend the second plan submitted for approval by the commission. Any amendment must be accompanied by a written statement declaring that the amendment is necessary to bring the submitted plan closer in conformity to the standards in section 42.4.

e. The plan approved by the board of supervisors shall be submitted to the state commissioner of elections for approval. If the plan does not meet the standards of section 42.4, the state commissioner shall reject the plan, and the board of supervisors shall direct the commission to prepare and adopt an acceptable plan.

If, after the initial proposed supervisor district plan or precinct plan has been submitted to the state commissioner for approval, it is necessary for the temporary county redistricting commission to make subsequent attempts at adopting an acceptable plan, the subsequent plans do not require public hearings.

3. OPEN MEETINGS AND PUBLIC RECORDS. Chapters 21 and 22 shall apply to the temporary county redistricting commission.

4. TERMINATION. The terms of the members of the temporary county redistricting commission shall expire twenty days following the date the county's supervisor district plan and corresponding precinct plan, if applicable, are approved or imposed by the state commissioner of elections under sections 49.7 and 331.209.

Sec. 24. Section 372.13, subsection 7, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

7. By ordinance, the council may divide the city into wards which shall be drawn according to the following standards:

a. All ward boundaries shall follow precinct boundaries.

b. Wards shall be as nearly equal as practicable to the ideal population determined by dividing the number of wards to be established into the population of the city.

c. Wards shall be composed of contiguous territory as compact as practicable.

d. Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

Approved May 13, 1994

CHAPTER 1180

ELECTION AND CAMPAIGN FINANCE LAWS

S.F. 2219

AN ACT relating to the office of secretary of state and ethics and campaign disclosure board, the conduct of elections and voter registration in the state, changing the threshold reporting level for ballot issues, and relating to corrective and technical changes to Iowa's election and campaign finance laws.

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

Section 1. Section 39.3, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7A. "Infamous crime" means a felony as defined in section 701.7, or an offense classified as a felony under federal law.

Sec. 2. Section 43.6, subsection 2, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

When a vacancy occurs in the office of county supervisor or any of the offices listed in section 39.17 and more than seventy days remain in the term of office following the next general election, the office shall be filled for the balance of the unexpired term at that general election

unless the vacancy has been filled by a special election called more than seventy-three days before the primary election. If an appointment to fill the vacancy in office is made eighty-eight or more days before the primary election and a petition requesting a special election has not been received within fourteen days after the appointment is made, candidates for the office shall be nominated at the primary election.

Sec. 3. Section 43.14, unnumbered paragraph 1, Code 1993, is amended to read as follows:

All nomination papers shall be ~~about~~ eight and one-half by ~~thirteen~~ fourteen inches in size and in substantially the following form:

Sec. 4. Section 43.18, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

43.18 AFFIDAVIT OF CANDIDACY.

Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be in the form prescribed by the secretary of state and shall include the following information:

1. The candidate's name in the form the candidate wants it to appear on the ballot.
2. The candidate's home address.
3. The name of the county in which the candidate resides.
4. The political party with which the candidate is registered to vote.
5. The office sought by the candidate, and the district the candidate seeks to represent, if any.
6. A declaration that if the candidate is nominated and elected the candidate will qualify by taking the oath of office.
7. A statement that the candidate is aware that the candidate is required to organize a candidate's committee which shall file an organization statement and disclosure reports if the committee or the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of the reporting threshold in section 56.2, subsection 4. This subsection shall not apply to candidates for federal office.
8. A statement that the candidate is aware of the prohibition in section 43.20 against being a candidate for more than one office appearing on the primary election ballot.
9. A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

Sec. 5. Section 43.26, Code 1993, is amended to read as follows:

43.26 BALLOT — FORM.

The official primary election ballot shall be prepared, arranged, and printed substantially in the following form:

PRIMARY ELECTION BALLOT
(Name of Party) of
County of ....., State of Iowa,
... Rotation (if any).
Primary election held on
the .... day of June, 19...

FOR UNITED STATES SENATOR
(Vote for no more than one.)
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ .....

FOR UNITED STATES REPRESENTATIVE
(Vote for no more than one.)
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ .....

FOR GOVERNOR
(Vote for no more than one.)
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ .....
(Followed by other elective state officers in the order in which they appear in section 39.9 and district officers in the order in which they appear in sections 39.15 and 39.16.)
FOR BOARD OF SUPERVISORS
(Vote for no more than two.)
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ .....
_____ .....
FOR COUNTY AUDITOR
(Vote for no more than one.)
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ .....
(Followed by other elective county officers in the order in which they appear in ~~sections~~ section 39.17 ~~and 39.18.~~)
FOR TOWNSHIP CLERK
(Vote for no more than one.)
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ .....
FOR TOWNSHIP TRUSTEES
(Vote for no more than two.)
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ CANDIDATE'S NAME
_____ .....
_____ .....

Sec. 6. Section 43.67, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

43.67 NOMINEE'S RIGHT TO PLACE ON BALLOT.

Each candidate nominated pursuant to section 43.66 is entitled to have the candidate's name printed on the official ballot to be voted at the general election without other certificate unless the candidate was nominated by write-in votes. Immediately after the completion of the canvass held under section 43.49, the county auditor shall notify each person who was nominated by write-in votes for a county or township office that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the general election. Immediately after the completion of the canvass held under section 43.63, the secretary of state shall notify each person who was nominated by write-in votes for a state or federal office that the person is required to file an affidavit of candidacy if the person wishes to be a candidate for that office at the general election. If the affidavit is not filed by five p.m. on the seventh day after the completion of the canvass, that person's name shall not be placed upon the official general election ballot. The affidavit shall be signed by the candidate, notarized, and filed with the county auditor or the secretary of state, whichever is applicable.

The affidavit shall be in the form prescribed by the secretary of state. The affidavit shall include the following information:

1. The candidate's name in the form the candidate wants it to appear on the ballot.
2. The candidate's home address.
3. The name of the county in which the candidate resides.

4. The political party by which the candidate was nominated.

5. The office sought by the candidate, and the district the candidate seeks to represent, if any.

6. A declaration that if the candidate is elected the candidate will qualify by taking the oath of office.

7. A statement that the candidate is aware that the candidate is required to organize a candidate's committee which shall file an organization statement and disclosure reports if the committee or the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of the reporting threshold in section 56.2, subsection 4. This subsection shall not apply to candidates for federal office.

8. A statement that the candidate is aware of the prohibition in section 49.41 against being a candidate for more than one office to be filled at the same election, except county agricultural extension council, soil and water conservation district commission, and regional library board of trustees.

9. A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

Sec. 7. Section 43.77, subsection 4, Code 1993, is amended to read as follows:

4. A vacancy has occurred in the office of senator in the Congress of the United States, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general, under the circumstances described in section 69.13, ~~subsection 1,~~ less than eighty-nine days before the primary election and not less than eighty-nine days before the general election, ~~or in the office of county supervisor or any of the offices listed in section 39.17, under the circumstances described in section 69.13, subsection 2, less than seventy-four days before the primary election and not less than seventy-four days before the general election.~~

Sec. 8. Section 43.77, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A vacancy has occurred in the office of county supervisor or in any of the offices listed in section 39.17 and the term of office has more than seventy days remaining after the date of the next general election and one of the following circumstances applies:

a. The vacancy occurred during the period beginning seventy-three days before the primary election and ending on the date of the primary election and no special election was called to fill the vacancy.

b. The vacancy occurred after the date of the primary election and more than seventy-three days before the general election.

Sec. 9. Section 44.3, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

44.3 CERTIFICATE.

1. The certificate required by section 44.2 shall state the following information:

a. The name of each candidate nominated.

b. The office to which each candidate is nominated.

c. The name of the political organization making such nomination, expressed in not more than five words.

d. The place of residence of each nominee, with the street or number thereof, if any.

e. In case of presidential candidates, the names and addresses of presidential electors shall be stated, and the names of the candidates for president and vice president shall be added to the name of the organization.

f. The name and address of each member of the organization's executive or central committee.

g. The provisions, if any, made for filling vacancies in nominations.

h. The name and address of each delegate or voter in attendance at a convention or caucus where a nomination is made.

2. Each candidate nominated by the convention or caucus shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be in the form prescribed by the secretary of state. The affidavit shall include the following information:

a. The candidate's name in the form the candidate wants it to appear on the ballot.

b. The candidate's home address.

c. The name of the county in which the candidate resides.

d. The name of the political organization by which the candidate was nominated.

e. The office sought by the candidate, and the district the candidate seeks to represent, if any.

f. A declaration that if the candidate is elected the candidate will qualify by taking the oath of office.

g. A statement that the candidate is aware that the candidate is required to organize a candidate's committee which shall file an organization statement and disclosure reports if the committee or the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of the reporting threshold in section 56.2, subsection 4. This subsection shall not apply to candidates for federal office.

h. A statement that the candidate is aware of the prohibition in section 49.41 against being a candidate for more than one office to be filled at the same election, except county agricultural extension council, soil and water conservation district commission, and regional library board of trustees.

i. A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

Sec. 10. Section 45.1, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 10. Nominations for township officers may be made by nomination petitions signed by not less than ten eligible electors of the township.

Sec. 11. Section 45.3, unnumbered paragraphs 2, 3, 4, 5, 6, 7, and 8, Code 1993, are amended by striking the paragraphs and inserting in lieu thereof the following:

Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the secretary of state and shall include the following information:

1. The candidate's name in the form the candidate wants it to appear on the ballot.

2. The candidate's home address.

3. The name of the county in which the candidate resides.

4. The name of the political organization by which the candidate was nominated, if any.

5. The office sought by the candidate, and the district the candidate seeks to represent, if any.

6. A declaration that if the candidate is elected the candidate will qualify by taking the oath of office.

7. A statement that the candidate is aware that the candidate is required to organize a candidate's committee which shall file an organization statement and disclosure reports if the committee or the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of the reporting threshold in section 56.2, subsection 4. This subsection shall not apply to candidates for federal office.

8. A statement that the candidate is aware of the prohibition in section 49.41 against being a candidate for more than one office to be filled at the same election, except county agricultural extension council, soil and water conservation district commission, and regional library board of trustees.

9. A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

Sec. 12. Section 49.11, subsection 2, Code Supplement 1993, is amended to read as follows:

2. Divide any precinct permanently established under this section which contains all or any parts of two or more mutually exclusive political subdivisions, ~~each~~ either or both of which is independently electing one or more officers or voting on one or more questions on the same date, into two or more temporary precincts and designate a polling place for each.

Sec. 13. Section 49.73, subsection 1, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any election conducted for a benefited district.

Sec. 14. Section 49.77, subsection 1, Code 1993, is amended to read as follows:

1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:

VOTER'S DECLARATION OF ELIGIBILITY

I do solemnly swear or affirm that I am a resident of the ..... precinct, ... ward or township, city of ....., county of ....., Iowa.

I am a qualified elector. I have not voted and will not vote in any other precinct in said election.

~~(For primary election only:) I am affiliated with the ..... party.~~

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

.....
SIGNATURE OF VOTER

.....
ADDRESS

.....
TELEPHONE

Approved:

.....
BOARD MEMBER

Sec. 15. Section 49.82, Code 1993, is amended to read as follows:

49.82 VOTER TO RECEIVE ONE BALLOT – ENDORSEMENT.

~~One~~ When an empty voting booth is available, one of the precinct election officials shall ~~give the voter~~ endorse the official's initials on each ballot the voter will receive. The initials shall be placed so that they may be seen when the ballot is properly folded or enclosed in a secrecy folder. The official shall give the voter one and only one of each of the ballots to be voted at that election in that precinct, except as provided by section 49.100~~, on the back of which a precinct election official shall endorse the official's initials so that they may be seen when the ballot is properly folded~~. No ballot without the required official endorsement shall be ~~deposited~~ placed in the ballot box.

Sec. 16. Section 49.84, Code 1993, is amended to read as follows:

49.84 MARKING AND RETURN OF BALLOT.

~~On receipt of~~ After receiving the ballot, the voter shall immediately ~~retire~~ go alone to one of the voting booths, and without delay mark the ballot~~, and, before~~. All voters shall vote in booths. No special lines shall be used to separate voters who state that they wish to vote only a portion of the ballot.

Before leaving the voting booth, the voter shall fold the ballot ~~so as~~ or enclose it in a secrecy folder to conceal the marks ~~thereon, and~~ on the ballot. The voter shall deliver ~~it~~ the ballot to one of the precinct election officials. No identifying mark or symbol shall be endorsed on the back of the voter's ballot. If the precinct has a portable vote tallying system which will not permit more than one ballot to be inserted at a time, the voter may insert the ballot into the tabulating device, otherwise the election official shall place the ballot in the ballot box.

Sec. 17. Section 49.104, subsections 2, 3, and 5, Code 1993, are amended to read as follows:

2. Any number of persons, not exceeding three at a time from each political party having candidates to be voted for at such election, to act as challenging committees, who are appointed and accredited by the executive or central committee of such political party or organization.

3. Any number of persons not exceeding three at a time from each of such political parties, appointed and accredited in the same manner as above prescribed for challenging committees, to witness the counting of ballots. Subject to the restrictions of section 51.11, the witnesses may observe the counting of ballots by a counting board during the hours the polls are open in any precinct for which double election boards have been appointed.

5. One observer at a time representing any nonparty political organization, any candidate nominated by petition pursuant to chapter 45, or any other nonpartisan candidate in a city or school election, appearing on the ballot of the election in progress. Candidates who send observers to the polls shall provide each observer with a letter of appointment in the form prescribed by the state commissioner.

Sec. 18. Section 49.124, Code 1993, is amended to read as follows:

49.124 TRAINING COURSE BY COMMISSIONER.

~~It shall be the duty of the~~ The commissioner ~~to~~ shall conduct, not ~~less~~ later than ~~three days~~ the day before each primary and general election, a training course of not more than two hours for all election personnel, and the commissioner may do so before any other election the commissioner administers. ~~Such~~ The personnel shall include all precinct election officials and any other persons who will be employed in or around the polling places on election day. At least two precinct election officials who will serve on each precinct election board at the forthcoming election shall attend the training course~~, and if~~. If the entire board does not attend, those members who do attend shall so far as possible be persons who have not previously attended a similar training course.

Sec. 19. Section 50.48, subsection 4, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

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 in the request or by the recount board. 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.

Sec. 20. Section 52.4, Code 1993, is amended to read as follows:

52.4 EXAMINERS — TERM — REMOVAL.

The ~~governor~~ state commissioner of elections shall appoint three members to a board of examiners for voting machines and electronic voting systems, not more than two of whom shall be from the same political party. The examiners shall hold office for ~~the term~~ staggered terms of ~~five~~ six years, subject to removal at the pleasure of the ~~governor~~ state commissioner of elections.

At least one of the examiners shall have been trained in computer programming and operations. The other two members shall be directly involved in the administration of elections and shall have experience in the use of electronic voting systems.

Sec. 21. Section 52.40, subsection 1, Code Supplement 1993, is amended to read as follows:

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.

Sec. 22. Section 53.17, subsection 2, unnumbered paragraph 2, Code 1993, is amended to read as follows:

In order for the ballot to be counted, the carrier envelope must be received in the commissioner's office before the polls close on election day or be clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner not later than noon on the Monday following the election.

Sec. 23. Section 53.22, subsection 2, Code Supplement 1993, is amended to read as follows:

2. Any qualified elector who becomes a patient or resident of a hospital or health care facility in the county where the elector is qualified to vote within three days prior to the date of any election or on election day may request an absentee ballot during that period or on election day. As an alternative to the application procedure prescribed by section 53.2, the qualified elector may make the request directly to the officers who are delivering and returning absentee ballots under this section. Alternatively, the request may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a qualified elector of that county, these officers shall deliver the appropriate absentee ballot to the qualified elector in the manner prescribed by this section.

Sec. 24. Section 53.22, subsection 5, Code Supplement 1993, is amended to read as follows:

5. If the qualified elector becomes a patient or resident of a hospital or health care facility outside the county where the elector is registered to vote within three days before the date of any election or on election day, the elector may designate a person to deliver and return the absentee ballot. The designee may be any person the elector chooses except that no candidate for any office to be voted upon for the election for which the ballot is requested may deliver a ballot under this subsection. The request for an absentee ballot may be made by telephone to the office of the commissioner not later than four hours before the close of the polls. If the requester is found to be a qualified elector of that county, the ballot shall be delivered by mail or by the person designated by the elector. An application form shall be included with the absentee ballot and shall be signed by the voter and returned with the ballot.

Absentee ballots voted under this subsection shall be delivered to the commissioner no later than the time the polls are closed on election day. If the ballot is returned by mail the carrier envelope must be received by the time the polls close, or clearly postmarked by an officially authorized postal service not later than the day before the election and received by the commissioner no later than the time established for the canvass by the board of supervisors for that election.

Sec. 25. Section 53.37, Code 1993, is amended by adding the following new unnumbered paragraph before unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. This division is intended to implement the federal Uniform and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff et seq.

Sec. 26. Section 53.39, Code 1993, is amended to read as follows:

53.39 REQUEST FOR BALLOT – WHEN AVAILABLE.

Section 53.2 does not apply ~~in connection with the primary and general elections~~ in the case of a qualified elector of the state of Iowa serving in the armed forces of the United States. In any such case an application for ballot as provided for in that section is not required and an absent voter's ballot shall be sent or made available to any such elector upon a request as provided in this division.

PARAGRAPH DIVIDED. All official ballots to be voted by qualified absent voters in the armed forces of the United States at the primary election and the general election shall be

printed prior to forty days before the respective elections and shall be available for transmittal to such qualified electors in the armed forces of the United States at least forty days before the respective elections. The provisions of this chapter apply to absent voting by qualified voters in the armed forces of the United States ~~at primary and general elections~~ except as modified by the provisions of this division.

Sec. 27. Section 53.40, unnumbered paragraph 1, Code 1993, is amended to read as follows:

~~Request~~ A request in writing for a ballot ~~for the primary election and for the general election~~ may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which the ballot is to be cast, at any time ~~prior to either of~~ before the ~~elections~~ election. Any member of the armed forces of the United States may request ballots for all elections to be held within a calendar year. The request may be made by using the federal postcard application form and indicating that the applicant wishes to receive ballots for all elections as permitted by state law. The county auditor shall send the applicant a ballot for each election held during the calendar year in which the application is received.

PARAGRAPH DIVIDED. Unless the request specifies otherwise, a request for the primary election shall also be considered a request for the general election. In the case of the general election request may be made not more than seventy days before the election, for and on behalf of a voter in the armed forces of the United States by a spouse, parent, parent-in-law, adult brother, adult sister, or adult child of the voter, residing in the county of the voter's residence. However, a request made by other than the voter may be required to be made on forms prescribed by the state commissioner.

Sec. 28. Section 53.43, Code 1993, is amended to read as follows:

53.43 IDENTIFICATION ON ENVELOPE.

The envelopes used in connection with voting by absent voter's ballot by voters who are members of the armed forces of the United States, shall have stamped or printed on them the words "Armed Forces or Overseas Ballot" and a designation of the election at which ~~said~~ the ballot is to be cast~~, either "Primary Election" or "General Election", as the case may be~~.

Sec. 29. Section 53.51, Code 1993, is amended to read as follows:

53.51 RULE OF CONSTRUCTION.

This division shall be liberally construed in order to provide means and opportunity for qualified voters of the state of Iowa serving in the armed forces of the United States to vote ~~at the primary and general elections~~.

Sec. 30. Section 53.53, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Federal write-in absentee ballots may be used in primary and general elections, and in special elections held pursuant to section 69.14. The federal write-in absentee ballot transmission envelope may also serve as an application for voter registration if the information submitted is sufficient to register the person to vote and the applicant is otherwise eligible to vote under the provisions of this division.

Sec. 31. Section 56.2, subsection 5, Code Supplement 1993, is amended by striking the subsection.

Sec. 32. Section 56.2, subsection 15, Code Supplement 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 in any one calendar year for the purpose of supporting or opposing a candidate for public office ~~or ballot issue,~~ or which accepts 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 five hundred dollars in the aggregate

in any one calendar year for the purpose of supporting or opposing a ballot issue; "political committee" also means 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~~ or which accepts 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 five hundred dollars in the aggregate in any one calendar year for the purpose of supporting or opposing 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 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. 33. Section 56.5, subsection 2, paragraph f, Code Supplement 1993, is amended to read as follows:

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 verify that they are aware of the requirement to file disclosure reports if the committee, the committee officers, the candidate, or both the committee officers and the candidate receive contributions in excess of five hundred dollars in the aggregate, make expenditures in excess of five hundred dollars in the aggregate, or incur indebtedness in excess of five hundred dollars in the aggregate in a calendar year for the purpose of supporting or opposing any candidate for public office. In the case of political committees, statements ~~relating to ballot issues~~ shall be made by the treasurer of the committee and the chairperson ~~a two hundred fifty dollar aggregate threshold level shall apply instead of the five hundred dollar threshold level~~.

Sec. 34. Section 56.5A, Code Supplement 1993, is amended to read as follows:

56.5A CANDIDATE'S COMMITTEE.

Each candidate for ~~federal,~~ state, 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~~ five hundred ~~fifty~~ dollars in the aggregate in a calendar year.

Sec. 35. Section 56.7, subsection 2, Code 1993, is amended to read as follows:

2. A copy of every report or statement shall be preserved by the person filing it or the person's successor for at least ~~one year~~ three years following the filing of the report or statement.

Sec. 36. Section 56.13, Code Supplement 1993, is amended to read as follows:

56.13 ~~ACTION OF COMMITTEE IMPUTED TO CANDIDATE~~ INDEPENDENT EXPENDITURES.

1. Action involving a contribution or expenditure which must be reported under this chapter and which is taken by any person, candidate's committee or political committee on behalf of a candidate, if known and approved by the candidate, shall be deemed action by the candidate and reported by the candidate's committee. It shall be presumed that a candidate approves the action if the candidate had knowledge of it and failed to file a statement of disavowal with the commissioner or board and take corrective action within seventy-two hours of the action. A person, candidate's committee or political committee taking such action independently of that candidate's committee shall notify that candidate's committee in writing within twenty-four hours of taking the action. The notification shall provide that candidate's committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board.

Any person who makes expenditures or incurs indebtedness, other than incidental expenses incurred in performing volunteer work, in support or opposition of a candidate for public office shall notify the appropriate committee and provide necessary information for disclosure reports.

2. If a person, other than a political committee, makes one or more expenditures in excess of five hundred dollars in the aggregate, or incurs indebtedness in excess of five hundred dollars in the aggregate, in any one calendar year for purposes of supporting or opposing a ballot issue, the person shall file a statement of activity within ten days of taking the action exceeding the threshold. The statement shall contain information identifying the person filing the statement, identifying the ballot issue, and indicating the position urged by the person with regard to the ballot issue. The person shall file reports indicating the dates on which the expenditures or incurrence of indebtedness took place; a description of the nature of the action taken which resulted in the expenditures or debt; and the cost of the promotion at fair market value. For a local ballot issue, the reports shall be filed five days prior to any election in which the ballot issue appears and on the first day of the month following the election, as well as on the twentieth day of January, May, and July of each year in which the ballot issue appears on the ballot and on the twentieth day of January and October of each year in which the ballot issue does not appear on the ballot. For a statewide ballot issue, reports shall be filed on the twentieth day of January, May, and July of each year. The reports shall be current to five days prior to the filing deadline, and are considered timely filed if mailed bearing a United States postal service postmark on or before the due date. Filing obligations shall cease when the person files a statement of discontinuation indicating that the person's financial activity in support of or in opposition to the ballot issue has ceased. Statements and reports shall be filed with the commissioner responsible under section 47.2 for conducting the election at which the issue is voted upon, except that reports on a statewide ballot issue shall be filed with the board.

3. A person taking action involving the making of an expenditure or incurrence of indebtedness in support or opposition to a ballot issue independently of a political committee shall, within seventy-two hours of taking the action, notify in writing any political committee which advocates the same position with regard to the ballot issue as the person taking the action. The notification shall provide the political committee with the cost of the promotion at fair market value. A copy of the notification shall be sent to the board. It shall be presumed that a benefited committee approves the action if the committee fails to file a statement of disavowal with the commissioner or board and takes corrective action within ten days of the action. Action approved by a committee shall be reported as a contribution by the committee.

4. ~~However, this~~ This section shall not be construed to require duplicate reporting of anything reported under this chapter, by a political committee, ~~or~~ except that actions which constitute contributions in kind shall be reported by the benefited committee. This section shall not be construed to require reporting of action by any person which does not constitute a contribution.

Sec. 37. Section 69.8, subsection 5, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

5. ELECTED TOWNSHIP OFFICES. When a vacancy occurs in the office of township clerk or township trustee, the vacancy shall be filled by appointment by the trustees. All appointments to fill vacancies in township offices shall be until a successor is elected at the next general election and qualifies by taking the oath of office. If the term of office in which the vacancy exists will expire within seventy days after the next general election, the person elected to the office for the succeeding term shall qualify by taking the oath of office within ten days after the election and shall serve for the remainder of the unexpired term, as well as for the next four-year term.

However, if the offices of two trustees are vacant the county board of supervisors shall fill the vacancies by appointment. If the offices of three trustees are vacant the board may fill the vacancies by appointment, or the board may adopt a resolution stating that the board will exercise all powers and duties assigned by law to the trustees of the township in which the

vacancies exist until the vacancies are filled at the next general election. If a township office vacancy is not filled by the trustees within thirty days after the vacancy occurs, the board of supervisors may appoint a successor to fill the vacancy until the vacancy can be filled at the next general election.

Sec. 38. Section 69.14A, subsection 1, paragraph a, unnumbered paragraph 2, Code 1993, is amended to read as follows:

However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, whichever is later, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph "b". The petition shall meet the requirements of section 331.306, except that in counties where supervisors are elected under plan "three", the number of signatures calculated according to the formula in section 331.306 shall be divided by the number of supervisor districts in the county.

Sec. 39. Section 69.14A, subsection 1, paragraph b, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. However, if a vacancy on the board of supervisors occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the committee or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot, as "For Board of Supervisors, To Fill Vacancy". The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

NEW UNNUMBERED PARAGRAPH. If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

Sec. 40. Section 69.14A, subsection 2, paragraph b, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. If a vacancy in an elective county office occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the board of supervisors or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot with the name of the office and the additional description, "To Fill Vacancy". The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

NEW UNNUMBERED PARAGRAPH. If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

Sec. 41. Section 161A.5, subsection 3, Code 1993, is amended to read as follows:

3. At each general election a successor shall be chosen for each commissioner whose term will expire in the succeeding January. Nomination of candidates for the office of commissioner shall be made by petition in accordance with chapter 45, except that each candidate's nominating petition shall be signed by at least twenty-five eligible electors of the district. The petition form shall be furnished by the county commissioner of elections. Every candidate shall file with the nomination papers an affidavit stating the candidate's name, the candidate's residence, that the person is a candidate and is eligible for the office of commissioner, and that

if elected the candidate will qualify for the office. The affidavit shall also state that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

PARAGRAPH DIVIDED. The signed petitions shall be filed with the county commissioner of elections not later than five p.m. on the sixty-ninth day before the general election. The votes for the office of district commissioner shall be canvassed in the same manner as the votes for county officers, and the returns shall be certified to the commissioners of the district. A plurality is sufficient to elect commissioners, and a primary election for the office shall not be held. If the canvass shows that the two candidates receiving the highest and the second highest number of votes for the office of district commissioner are both residents of the same township, the board shall certify as elected the candidate who received the highest number of votes for the office and the candidate receiving the next highest number of votes for the office who is not a resident of the same township as the candidate receiving the highest number of votes.

Sec. 42. Section 277.4, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

Each candidate shall be nominated by 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 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. The affidavit shall also state that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

Sec. 43. Section 277.5, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Objections to the legal sufficiency of a nomination petition or to the eligibility of a candidate may be filed by any person who would have the right to vote for a candidate for the office in question. The objection must be filed with the secretary of the school board at least ~~thirty~~ thirty-five days before the day of the school election. When objections are filed notice shall forthwith be given to the candidate affected, addressed to the candidate's place of residence as given on the candidate's affidavit, stating that objections have been made to the legal sufficiency of the petition or to the eligibility of the candidate, and also stating the time and place the objections will be considered.

Sec. 44. NEW SECTION. 277.7 PETITIONS FOR PUBLIC MEASURES.

A petition filed with the school board to request an election on a public measure shall be examined before it is accepted for filing. If the petition appears valid on its face it shall be accepted for filing. If it lacks the required number of signatures it shall be returned to the petitioners.

Petitions which have been accepted for filing are valid unless written objections are filed. Objections must be filed with the secretary of the school board within five working days after the petition was filed. The objection process in section 277.5 shall be followed for objections filed pursuant to this section.

Sec. 45. Section 331.237, subsection 1, Code 1993, is amended to read as follows:

1. If a proposed charter for county government is received not ~~later~~ less than five working days before the filing deadline for candidates for county offices specified in section 44.4 for the next general election, the board shall direct the county commissioner of elections to submit to the qualified electors of the county at the next general election the question of whether the proposed charter shall be adopted. A summary of the proposed charter or amendment ~~must~~ shall be published in the official county newspapers and in a newspaper of general circulation in each participating city, if applicable, at least ten but not more than twenty days before the date of the election. If a majority of the votes cast on the question is in favor of the proposal, the proposal is adopted.

Sec. 46. Section 331.237, subsection 2, paragraph a, Code 1993, is amended to read as follows:

a. The adopted charter shall take effect July 1 following the general election at which it is approved unless the charter provides a later effective date. If the adopted charter calls for a change in the form of government, ~~a special election shall be called to elect the new elective~~ officers to fill elective offices shall be elected in the general election in the even-numbered year following the adoption of the charter. ~~If the adopted charter provides for a special election, the board shall direct the county commissioner of elections to conduct the election.~~ Those county officers holding office at the time of the adoption of the charter shall continue in office until the general election in the even-numbered year following the adoption of the charter. If the charter provides that one or more elective offices are combined, the board of supervisors shall appoint one of the elective officers of the combined offices to serve until the general election in the even-numbered year. If the charter calls for the elimination of an elective office, that elective officer's term of office shall expire on the date the adopted charter takes effect.

Sec. 47. Section 331.254, subsection 7, Code 1993, is amended to read as follows:

7. The merger of the elective offices of each consolidating county with the election of new officers within sixty days after the effective date of the charter. The elections shall be conducted by the county commissioner of elections of each county ~~pursuant to section 69.13~~. No primary election shall be held. Nominations shall be made pursuant to section 43.78 and chapters 44 and 45, as applicable, except that the filing deadline shall be forty days before the election.

Sec. 48. Section 331.306, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. A petition shall be examined before it is accepted for filing. If it appears valid on its face it shall be accepted for filing. If it lacks the required number of signatures it shall be returned to the petitioners.

NEW UNNUMBERED PARAGRAPH. Petitions which have been accepted for filing are valid unless written objections are filed. Objections must be filed with the county auditor within five working days after the petition was filed. The objection process in section 44.7 shall be followed for objections filed pursuant to this section.

Sec. 49. Section 347.10, Code 1993, is amended to read as follows:

347.10 VACANCIES.

Vacancies in the board of trustees may, until the next general election, be filled by ~~an~~ appointment ~~to fill the vacancy~~ by the remaining members of the board of trustees or, if fewer than four trustees remain on the board, by the board of supervisors for the period until the vacancies are filled ~~pursuant to section 69.12~~ by election. ~~Should~~ If any board member ~~be~~ is absent for four consecutive regular board meetings, without prior excuse, the member's position shall be declared vacant and filled as set out ~~above~~ in this section.

Sec. 50. Section 362.3, subsection 2, Code Supplement 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.

In the case of notices of elections, a city with a population of two hundred or less meets the publication requirement of this section by posting notices of elections in three public places which have been designated by ordinance.

Sec. 51. Section 362.4, Code 1993, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. The petition shall be examined before it is accepted for filing. If the petition appears valid on its face it shall be accepted for filing. If it lacks the required number of signatures it shall be returned to the petitioner.

NEW UNNUMBERED PARAGRAPH. Petitions which have been accepted for filing are valid unless written objections are filed with the city clerk within five working days after the petition is received. The objection process in section 44.8 shall be followed.

Sec. 52. Section 372.2, subsection 1, Code 1993, is amended to read as follows:

1. Eligible electors of the city~~, equal in number to at least twenty-five percent of the persons who voted at the last regular city election,~~ may petition the council to submit to the electors the question of adopting a different form of city government. The minimum number of signatures required on the petition shall be equal in number to twenty-five percent of those who voted in the last regular city election. The petition shall specify which form of city government in section 372.1 the petitioners propose for adoption.

Sec. 53. Section 372.2, subsection 5, paragraph a, Code 1993, is amended to read as follows:

a. The elective officers provided for in the adopted form are to be elected at the next regular city election held more than ~~sixty~~ eighty-four days after the special election at which the form was adopted~~, and the~~. The adopted form becomes effective at the beginning of the new term following the regular city election.

Sec. 54. Section 372.13, subsection 2, paragraph a, subparagraph (4), Code Supplement 1993, is amended to read as follows:

(4) The minimum number of signatures for a valid petition pursuant to subparagraphs (1) through (3) shall not be fewer than ten. In determining the minimum number of signatures required, if at the last preceding election more than one position was to be filled for the office in which the vacancy exists, the number of voters who voted for candidates for the office shall be determined by dividing the total number of votes cast for the office by the number of seats to be filled.

Sec. 55. Section 376.4, unnumbered paragraph 4, Code 1993, is amended to read as follows:

The petition must include the affidavit of the individual for whom it is filed, stating the individual's name, the individual's residence, that the individual is a candidate and eligible for the office, and that if elected the individual will qualify for the office. The affidavit shall also state that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted, and never pardoned, of a felony or other infamous crime.

Sec. 56. Section 384.12, subsection 19, paragraph c, Code 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

c. The ballot question shall be in substantially the following form:

WHICH TAX LEVY SHALL BE ADOPTED FOR THE CITY OF .....?

(Vote for only one of the following choices.)

CHANGE LEVY AMOUNT _____

Add to the existing levy amount a tax for the purpose of ..... (state purpose of proposed levy) at a rate of ..... (rate) which will provide an additional $..... (amount).

KEEP CURRENT LEVY _____

Continue under the current maximum rate of ....., providing $..... (amount).

Sec. 57. TRANSITION AND EFFECTIVE DATE.

1. When the terms of the current members of the board of examiners for voting machines and electronic voting systems expire in June 1994, the state commissioner shall appoint three examiners for staggered terms. One examiner shall be appointed for six years, one for four years, and one for two years.

2. This section of this Act and the section of this Act which amends Code section 52.4, relating to appointment of the board of examiners for voting machines and electronic voting systems, being deemed of immediate importance, take effect upon enactment.

Sec. 58. APPLICABILITY. Section 46 of this Act, which amends Code section 331.237, subsection 2, is applicable to charters adopted by the electorate on or after the effective date of this Act.

Approved May 16, 1994

CHAPTER 1181

STATE BUDGET PROCESSES

S.F. 2318

AN ACT relating to state budget processes and providing effective dates.

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

DIVISION I
REVERSIONS

Section 1. Section 8.54, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The governor shall not submit and the general assembly shall not pass a budget which in order to balance assumes reversion of a specific amount of the total of the appropriations included in the budget.

Sec. 2. NEW SECTION. 8.62 USE OF REVERSIONS.

For the purposes of this section, "operational appropriation" means an appropriation from the general fund of the state providing for salary, support, administrative expenses, or other personnel-related costs. Notwithstanding the provisions of section 8.33 or any other provision of law to the contrary, if on June 30 of the fiscal years ending in 1995 and 1996, a balance of an operational appropriation remains unexpended or unencumbered, not more than fifty percent of the balance may be encumbered by the agency to which the appropriation was made and used as provided in this section and the remaining balance shall be deposited in the cash reserve fund created in section 8.56. Moneys encumbered under this section shall only be used by the agency during the succeeding fiscal year for employee training and for technology enhancement. Unused moneys encumbered under this section shall be deposited in the cash reserve fund on June 30 of the succeeding fiscal year. On or before June 30, 1996, and 1997, an agency encumbering funds under this section shall report to the joint appropriations subcommittee which recommends funding for the agency, the legislative fiscal bureau, the department of management, and the legislative fiscal committee of the legislative council detailing how the moneys were expended. Moneys shall not be encumbered under this section from an appropriation which received a transfer from another appropriation pursuant to section 8.39. This section is repealed on September 1, 1997.

Sec. 3. CONTINGENCY PROVISION FOR USE OF REVERSIONS. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, if the sum of the moneys that agencies would

encumber under section 8.62 as enacted by this Act would cause a deficit in the general fund of the state, the department of management shall determine the amount of that sum which is necessary to eliminate the potential deficit. The department shall prorate the determined amount among the agencies and moneys encumbered by an agency under section 8.62 shall be reduced to the extent of that proration.

DIVISION II
EXPENDITURE LIMITATION

Sec. 4. Section 8.22A, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. At the meeting in which the conference agrees to the revenue estimate for the following fiscal year in accordance with the provisions of subsection 3, the conference shall agree to an estimate for tax refunds payable from that estimated revenue. The estimates required by this subsection shall be used in determining the adjusted revenue estimate under section 8.54.

Sec. 5. Section 8.54, subsection 1, unnumbered paragraph 1, and paragraph a, Code 1993, are amended to read as follows:

For the purposes of section 8.22A, this section, and sections 8.55 through 8.57:

a. "Adjusted revenue estimate" means the appropriate revenue estimate for the general fund for the following fiscal year as determined by the revenue estimating conference under section 8.22A, subsection 3, adjusted by subtracting estimated tax refunds payable from that estimated revenue and as determined by the conference, adding any new revenues which may be considered to be eligible for deposit in the general fund.

DIVISION III
MANAGEMENT OF FUNDS

Sec. 6. Section 8.39, subsection 2, Code 1993, is amended to read as follows:

2. If the appropriation of a department, institution, or agency is insufficient to properly meet the legitimate expenses of the department, institution, or agency, the director, with the approval of the governor, may make an interdepartmental transfer from any other department, institution, or agency of the state having an appropriation in excess of its needs, of sufficient funds to meet that deficiency. An interdepartmental transfer to an appropriation which is not an entitlement appropriation is not authorized when the general assembly is in regular session and, in addition, the sum of interdepartmental transfers in a fiscal year to an appropriation which is not an entitlement appropriation shall not exceed fifty percent of the amount of the appropriation as enacted by the general assembly. For the purposes of this subsection, an entitlement appropriation is a line item appropriation to the department of human services for foster care, state supplementary assistance, or medical assistance, or for the family investment program.

Sec. 7. Section 8.53, unnumbered paragraph 1, Code 1993, is amended to read as follows:

For the fiscal year beginning July 1, 1992, and the two succeeding fiscal years, the governor shall recommend in the governor's budget and the general assembly shall provide funds to eliminate the state generally accepted accounting principles (GAAP) deficit, as reported in the state's comprehensive annual financial report issued during the prior fiscal year, and taking into account the revised GAAP standards that are ~~projected to be~~ in place ~~by~~ for the fiscal year ending in 1995, either through the appropriation of specific funds to provide an adjustment in the GAAP deficit or by setting funds aside in a special account in an amount equal to the GAAP deficit.

Sec. 8. Section 8.55, subsection 1, Code 1993, is amended to read as follows:

1. The Iowa economic emergency fund is created. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. The moneys in the fund shall not revert to the general fund,

notwithstanding section 8.33, unless and to the extent the fund exceeds the maximum balance. However, the fund shall be considered a special account for the purposes of section 8.53.

Sec. 9. Section 8.56, subsection 1, Code 1993, is amended to read as follows:

1. A cash reserve fund is created in the state treasury. The cash reserve fund shall be separate from the general fund of the state and shall not be considered part of the general fund of the state except in determining the cash position of the state as provided in subsection 3. The moneys in the cash reserve fund are not subject to section 8.33 and shall not be transferred, used, obligated, appropriated, or otherwise encumbered except as provided in this section. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the cash reserve fund shall be credited to the Iowa economic emergency fund. Moneys in the cash reserve fund may be used for cash flow purposes provided that any moneys so allocated are returned to the cash reserve fund by the end of each fiscal year. However, the fund shall be considered a special account for the purposes of section 8.53.

Sec. 10. Section 8.57, subsections 2 and 3, Code 1993, are amended to read as follows:

2. Moneys appropriated under subsection 1 shall be first credited to the cash reserve fund. To the extent that moneys appropriated under subsection 1 would make the moneys in the cash reserve fund exceed the cash reserve goal percentage of the adjusted revenue estimate for the fiscal year, the moneys are appropriated to the department of management to be spent for the purpose of eliminating Iowa's GAAP deficit, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year. These moneys shall be deposited into a GAAP deficit reduction account established within the department of management. Unspent moneys in this account shall be available for expenditure for subsequent fiscal years. The department of management shall annually file with both houses of the general assembly at the time of the submission of the governor's budget, a schedule of the items for which moneys appropriated under this subsection for the purpose of eliminating Iowa's GAAP deficit, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year, shall be spent ~~in the fiscal year commencing July 1 following the date of the filing of the report~~. The schedule shall indicate the fiscal year in which the spending for an item is to take place and shall incorporate the items detailed in 1994 Iowa Acts, Senate File 2318, section 17. The schedule shall list each item of expenditure and the ~~maximum~~ estimated dollar amount of moneys to be spent on that item for the fiscal year. The department of management may submit during a regular legislative session an amended schedule for legislative consideration. If moneys appropriated under this subsection are not enough to pay for all listed expenditures, the department of management shall ~~allocate~~ distribute the payments among the listed expenditure items. Moneys appropriated to the department of management under this subsection shall not be spent on items other than those included in the filed schedule. After elimination of the GAAP deficit, including elimination of the making of any appropriation in an incorrect fiscal year, any moneys in the GAAP deficit reduction account shall be appropriated to the Iowa economic emergency fund.

3. To the extent that moneys appropriated under subsection 1 exceed the amounts necessary for the cash reserve fund to reach its maximum balance and the amounts necessary to eliminate Iowa's GAAP deficit, including elimination of the making of any appropriation in an incorrect fiscal year, the moneys shall be appropriated to the Iowa economic emergency fund.

Sec. 11. Section 8.57, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A rebuild Iowa infrastructure account is created under the authority of the department of management. Moneys in the account shall be used as directed by the general assembly for public infrastructure-related expenditures. The general assembly may provide that all or part of the moneys deposited in the GAAP deficit reduction account created in this section shall be transferred to the infrastructure account in lieu of appropriation of the moneys to the Iowa economic emergency fund.

Sec. 12. Section 257.16, unnumbered paragraph 2, Code 1993, is amended to read as follows:

All state aids paid under this chapter, unless otherwise stated, shall be paid in monthly installments beginning on September 15 of a budget year and ending on or about June 15 of the budget year as determined by the department of management, taking into consideration the relative budget and cash position of the state resources. ~~However, an amount of state school foundation aid equal to the general allocation of the school district as determined under section 405A.2 and the amount of the tax credit for livestock pursuant to section 442.2, subsection 2, as it appeared in the 1987 Code, shall be paid to the school district on July 15 of the subsequent fiscal year, and the appropriation for this amount shall be made for the fiscal year during which the payment is made. However, the state aid paid to school districts under section 257.13 shall be paid in monthly installments beginning on December 15 and ending on June 15 of a budget year.~~

Sec. 13. Section 260D.12, Code 1993, is amended to read as follows:

260D.12 PAYMENT OF APPROPRIATION.

Payment of appropriations for distribution under this chapter or of appropriations made in lieu of such appropriations, shall be made by the department of revenue and finance in four installments due on or about November 15, February 15, ~~and~~ May 15, and August 15 of a budget year ~~and on or about August 15 of the next following budget year~~, and installments shall be as nearly equal as possible, as determined by the department of revenue and finance, taking into consideration the relative budget and cash position of the state resources.

~~The payment made on or about August 15 of the next following budget year is an account receivable for the budget year.~~

Sec. 14. Section 285.2, unnumbered paragraph 5, Code 1993, is amended to read as follows:

Claims shall be accompanied by an affidavit of an officer of the public school district affirming the accuracy of the claim. By February 1 and ~~by July~~ on or about June 15 of each year, the department shall certify to the department of revenue and finance the amounts of approved claims to be paid, and the department of revenue and finance shall draw warrants payable to school districts which have established claims. Claims shall be allowed where practical, and at the option of the public school district of the pupil's residence, subject to approval by the area education agency of the pupil's residence, under section 285.9, subsection 3, the public school district of the pupil's residence may transport a pupil to a school located in a contiguous public school district outside the boundary lines of the public school district of the pupil's residence. The public school district of the pupil's residence may contract with the contiguous public school district or with a private contractor under section 285.5 to transport the pupils to the school of attendance within the boundary lines of the contiguous public school district. The public school district in which the pupil resides may contract with the contiguous public school district or with a private contractor under section 285.5 to transport the pupil from the pupil's residence or from designated school bus collection locations to the school located within the boundary lines of the contiguous public school district, subject to the approval of the area education agency of the pupil's residence. The public school district of the pupil's residence may utilize the reimbursement provisions of section 285.1, subsection 3.

Sec. 15. Section 303.18, unnumbered paragraph 2, Code Supplement 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 for purposes of raising funds for making payments under this section. 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 257B.1A.

Sec. 16. Section 421.31, subsection 5, Code 1993, is amended to read as follows:

5. ACCOUNTS. To keep the central budget and proprietary control accounts of the general fund of the state and special funds, as defined in section 8.2, of the state government. Upon elimination of the state deficit under generally accepted accounting principles, including the payment of items budgeted in a subsequent fiscal year which under generally accepted accounting principles should be budgeted in the current fiscal year, the recognition of revenues received and expenditures paid and transfers received and paid within the time period required pursuant to section 8.33, shall be in accordance with generally accepted accounting principles. Budget accounts are those accounts maintained to control the receipt and disposition of all funds, appropriations, and allotments. Proprietary accounts are those accounts relating to assets, liabilities, income, and expense. For each fiscal year, the financial position and results of operations of the state shall be reported in a comprehensive annual financial report prepared in accordance with generally accepted accounting principles, as established by the governmental accounting standards board.

Sec. 17. GAAP DEFICIT REDUCTION ACCOUNT. The department of management shall utilize the moneys deposited during the fiscal year beginning July 1, 1994, and succeeding fiscal years, in the GAAP deficit reduction account created in section 8.57 for payment of the following list of items. Notwithstanding the Code section specified in the list or any provision to the contrary, payment of an item included in the list shall be in the same fiscal year the item is due or the expense of the item is incurred. Payment for the items shall be made in the following descending priority order, where feasible:

1. Education of children placed in foster care.
2. Women, infants, and children program.
3. Education of children placed by the district court.
4. Human services decategorization projects.
5. Permanent school fund loan.
6. Franchise tax.
7. Expenditures incurred by school districts for vocational education aid to secondary schools.
8. Nonpublic school transportation paid under section 285.2.
9. 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 used for expenditures incurred by the community colleges.
10. School aid property credits paid under section 257.16.
11. Accrued salaries.
12. Other items included in the schedule filed by the department of management in accordance with section 8.57.

Sec. 18. CONTINGENT EFFECTIVE DATE. Sections 12, 13, 14, and 15 of this division shall take effect upon the publication date of the state comprehensive annual financial report prepared in accordance with generally accepted accounting principles which indicates that the payment of the obligation described in the section is made in accordance with generally accepted accounting principles. A report shall be made by the department of management to the Code editor on or before the publication date of the report.

Approved May 16, 1994

CHAPTER 1182

TAX INCREMENT FINANCING FOR URBAN RENEWAL AND NEW JOBS TRAINING

H.F. 2204

AN ACT relating to the issuance of bonds by a county to fund an urban renewal project, the incremental taxes allowed to be levied by a county in an urban renewal area, and providing an effective date.

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

Section 1. Section 260E.3, unnumbered paragraph 1, and subsection 1, Code 1993, are amended to read as follows:

1. A community college may enter into an agreement to establish a project. If an agreement is entered into, the community college and the employer shall notify the department of revenue and finance as soon as possible. An agreement ~~may~~ shall provide~~, but is not limited to:~~

~~1. Program~~ for program costs, including deferred costs, which may be paid from one or a combination of the following sources:

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

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

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

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

Sec. 2. Section 260E.3, subsection 4, Code 1993, is amended to read as follows:

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

Sec. 3. Section 260F.3, unnumbered paragraph 1, and subsection 1, Code 1993, are amended to read as follows:

1. A community college may enter into an agreement to establish a project. If an agreement is entered into, the community college and the business shall notify the department of revenue and finance as soon as possible. An agreement ~~may~~ shall provide~~, but is not limited to:~~

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

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

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

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

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

Sec. 4. Section 260F.3, subsections 5 and 7, Code 1993, are amended to read as follows:

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

7. ~~Provisions~~ An agreement shall contain provisions relating to the type of financial assistance being provided which may be in the form of grants, loans, forgivable loans, or a combination of grants and loans according to guidelines adopted by the department of economic development. However, the amount of financial assistance provided for a project under this chapter shall not exceed fifty thousand dollars. Financial assistance for a new jobs project shall be limited to loans. Financial assistance for a retraining project shall not include a grant or

forgivable loan unless the result of the retooling creates, at the business production site subject to the retooling, a net increase in the number of employment positions, a net increase in the quality of the employment positions held by participating workers, or a net increase in wages paid to participating workers. The financial assistance provided to a participating business must be based on the actual cost of training or retraining participating workers under the project.

Sec. 5. Section 331.441, subsection 2, paragraph b, Code Supplement 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (14) The aiding of the planning, undertaking, and carrying out of urban renewal projects under the authority of chapter 403 and for the purposes set out in section 403.12. However, bonds issued for this purpose are subject to the right of petition for an election as provided in section 331.442, subsection 5, without limitation on the amount of the bond issue or the population of the county, and the board shall include notice of the right of petition in the notice of proposed action required under section 331.443, subsection 2.

Sec. 6. Section 403.5, subsections 2, 3, 4, 5, and 7, Code 1993, are amended to read as follows:

2. The municipality may itself prepare or cause to be prepared an urban renewal plan; or any person or agency, public or private, may submit such a plan to a municipality. Prior to its approval of an urban renewal ~~project~~ plan, the local governing body shall submit such plan to the planning commission of the municipality, if any, for review and recommendations as to its conformity with the general plan for the development of the municipality as a whole. The planning commission shall submit its written recommendations with respect to the proposed urban renewal plan to the local governing body within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within ~~said~~ the thirty days, then, without such recommendations, the local governing body may proceed with the hearing on the proposed urban renewal project prescribed by subsection 3 ~~hereof~~.

Prior to its approval of an urban renewal plan which provides for a division of revenue pursuant to section 403.19, the municipality shall mail the proposed plan by regular mail to the affected taxing entities. The municipality shall include with the proposed plan notification of a consultation to be held between the municipality and affected taxing entities prior to the public hearing on the urban renewal plan. Each affected taxing entity may appoint a representative to attend the consultation. The consultation may include a discussion of the estimated growth in valuation of taxable property included in the proposed urban renewal area, the fiscal impact of the division of revenue on the affected taxing entities, the estimated impact on the provision of services by each of the affected taxing entities in the proposed urban renewal area, and the duration of any bond issuance included in the plan. The designated representative of the affected taxing entity may make written recommendations for modification to the proposed division of revenue no later than seven days following the date of the consultation. The representative of the municipality shall, no later than seven days prior to the public hearing on the urban renewal plan, submit a written response to the affected taxing entity addressing the recommendations for modification to the proposed division of revenue.

3. The local governing body shall hold a public hearing on an urban renewal project after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the municipality. The notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal project under consideration. A copy of the notice shall be sent by ordinary mail to each affected taxing entity.

4. Following such hearing, the local governing body may approve an urban renewal ~~project~~ plan if it finds that:

a. A feasible method exists for the location of families who will be displaced from the urban renewal area into decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families;

b. The urban renewal plan conforms to the general plan of the municipality as a whole; provided, that if the urban renewal area consists of an area of open land to be acquired by the municipality, such area shall not be so acquired except:

(1) If it is to be developed for residential uses, the local governing body shall determine that a shortage of housing of sound standards and design with decency, safety and sanitation exists in the municipality; that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas, including other portions of the urban renewal area; that the conditions of blight in the area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime, and constitute a menace to the public health, safety, morals, or welfare; and that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality.

(2) If it is to be developed for nonresidential uses, the local governing body shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives. The acquisition may require the exercise of governmental action, as provided in this chapter, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, or because of the need for the correlation of the area with other areas of a municipality by streets and modern traffic requirements, or any combination of such factors or other conditions which retard development of the area.

5. An urban renewal plan may be modified at any time: Provided, that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification may be conditioned upon such approval of the owner, lessee or successor in interest as the municipality may deem advisable, and in any event such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or a lessee's or purchaser's successor or successors in interest, may be entitled to assert. The municipality shall comply with the notification and consultation process provided in this section prior to the approval of any amendment or modification to an adopted urban renewal plan if such amendment or modification provides for refunding bonds or refinancing resulting in an increase in debt service or provides for the issuance of bonds or other indebtedness, to be funded primarily in the manner provided in section 403.19.

7. Notwithstanding any other provisions of this chapter, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the governor of the state has certified the need for disaster assistance under Public Law 875, Eighty-first Congress, 64 Stat. L. 1109; 42 U.S.C. §§ 1855-1855g or other federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection 4 ~~of this section~~ and without regard to provisions of this section requiring notification and consultation, a general plan for the municipality, and a public hearing on the urban renewal plan or project.

Sec. 7. Section 403.12, subsection 5, Code 1993, is amended to read as follows:

5. For the purposes of this section, or for the purpose of aiding in the planning, undertaking, or carrying out of an urban renewal project of a municipality, ~~the~~ a municipality may, in addition to any authority to issue bonds pursuant to section 403.9, issue and sell its general obligation bonds. Any bonds issued by a municipality pursuant to this section must be issued, in the case of a city, by resolution of the council in the manner and within the limitations prescribed by chapter 384, division III, or in the case of a county, by resolution of the board of supervisors in the manner and within the limitations prescribed by chapter 331, division IV, part 3. Bonds issued pursuant to the provisions of this subsection must be sold in the manner prescribed by chapter 75. The additional power granted in this subsection for the financing of public ~~improvements~~ undertakings and activities by municipalities within an urban renewal ~~project~~ area shall not be construed as a limitation of the existing powers of ~~cities~~ municipalities.

Sec. 8. Section 403.17, subsections 2, 3, 8, 12, 20, and 22, Code 1993, are amended to read as follows:

2. "Area of operation" of a city means the area within the corporate limits of the ~~municipality~~ city and, with the consent of the county, the area within two miles of such limits, except that it does not include any area which lies within the territorial boundaries of another incorporated city, unless a resolution has been adopted by the governing body of the city declaring a need to be included in the area. The "area of operation" of a county means an area outside the corporate limits of a city. However, in that area outside a city's boundary but within two miles of the city's boundary, a joint agreement between the city and the county is required allowing the county to proceed with the activities authorized under this chapter. In addition, a county may proceed with activities authorized under this chapter in an area inside the boundaries of a city, provided a joint agreement is entered into with respect to such activities between a city and a county.

3. "Blighted area" means an area of a municipality within which the local governing body of the municipality determines that the presence of a substantial number of slum, deteriorated, or deteriorating structures; defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; insanitary or unsafe conditions; deterioration of site or other improvements; diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land; defective or unusual conditions of title; or the existence of conditions which endanger life or property by fire and other causes; or any combination of these factors; substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations, or constitutes an economic or social liability and is a menace to the public health, safety, or welfare in its present condition and use. A disaster area referred to in section 403.5, subsection 7, constitutes a "blighted area". "Blighted area" does not include real property assessed as agricultural property for purposes of property taxation.

8. "Economic development area" means an area of a municipality designated by the local governing body as appropriate for commercial and industrial enterprises or housing and residential development for low and moderate income families, including single or multifamily housing. If an urban renewal plan for an urban renewal area is based upon a finding that the area is an economic development area and that no part contains slum or blighted conditions, then the division of revenue provided in section 403.19 and stated in the plan shall be limited to twenty years from the calendar year following the calendar year in which the city first certifies to the county auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in section 403.19. Such ~~designated~~ area designated before July 1, 1994, shall not include land which is part of a century farm.

12. "Low or moderate income families" means ~~low or moderate income families as defined in section 16.1~~ those families, including single person households, earning no more than eighty percent of the higher of the median family income of the county or the statewide nonmetropolitan area as determined by the latest United States department of housing and urban development, section 8 income guidelines.

20. "Slum area" shall mean an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which: By reason of dilapidation, deterioration, age or obsolescence; by reason of inadequate provision for ventilation, light, air, sanitation, or open spaces; by reason of high density of population and overcrowding; by reason of the existence of conditions which endanger life or property by fire and other causes; or which by any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and which is detrimental to the public health, safety, morals or welfare. "Slum area" does not include real property assessed as agricultural property for purposes of property taxation.

22. "Urban renewal plan" means a plan for the development, redevelopment, improvement, or rehabilitation of a designated urban renewal area, as it exists from time to time, ~~for an urban renewal project~~. The plan shall meet the following requirements:

a. Conform to the general plan for the municipality as a whole except as provided in section 403.5, subsection 7~~;~~.

b. Be sufficiently complete to indicate the ~~land acquisition, demolition and removal of structures,~~ real property located in the urban renewal area to be acquired for the proposed development, redevelopment, ~~development, improvements, and~~ improvement, or rehabilitation ~~proposed to be carried out in the urban renewal area~~, and to indicate any zoning ~~and planning~~ district changes, ~~if any,~~ existing and future land uses, ~~maximum densities, building requirements,~~ and the ~~plan's relationship to definite~~ local objectives respecting ~~appropriate~~ development, redevelopment, improvement, or rehabilitation related to the future land uses plan, and need for improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements within the urban renewal area.

c. If the plan includes a provision for the division of taxes as provided in section 403.19, the plan shall also include a list of the current general obligation debt of the municipality, the current constitutional debt limit of the municipality, and the proposed amount of indebtedness to be incurred, including loans, advances, indebtedness, or bonds which qualify for payment from the special fund referred to in section 403.19, subsection 2.

Sec. 9. Section 403.17, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Affected taxing entity" means a city, community college, county, or school district which levied or certified for levy a property tax on any portion of the taxable property located within the urban renewal area in the fiscal year beginning prior to the calendar year in which a proposed urban renewal plan is submitted to the local governing body for approval.

Sec. 10. Section 403.19, unnumbered paragraph 1, subsections 1, 2, and 3, Code 1993, are amended to read as follows:

A municipality may provide by ordinance that taxes levied on taxable property in an urban renewal ~~project~~ area each year by or for the benefit of the state, city, county, school district, or other taxing district ~~after the effective date of such ordinance~~, shall be divided as follows:

1. a. ~~That~~ Unless otherwise provided in this section, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the urban renewal ~~project~~ area, as shown on the assessment roll as of January 1 of the calendar year preceding the ~~effective date of the ordinance~~ first calendar year in which the municipality certifies to the county auditor the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue, or on the assessment roll last equalized prior to the date of initial adoption of the urban renewal plan ~~in the case of projects commenced~~ if the plan was adopted prior to July 1, 1972, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for ~~said~~ the taxing district into which all other property taxes are paid. However, the municipality may choose to divide that portion of the taxes which would be produced by levying the municipality's portion of the total tax rate levied by or for the municipality upon the total sum of the assessed value of the taxable property in the urban renewal area, as shown on the assessment roll as of January 1 of the calendar year preceding the effective date of the ordinance and if the municipality so chooses, an affected taxing entity may allow a municipality to divide that portion of the taxes which would be produced by levying the affected taxing district's portion of the total tax rate levied by or for the affected taxing entity upon the total sum of the assessed value of the taxable property in the urban renewal area, as shown on the assessment roll as of January 1 of the calendar year preceding the effective date of the ordinance. This choice to divide a portion of the taxes shall not be construed to change the effective date of the division of property tax revenue with respect to an urban renewal plan in existence on July 1, 1994.

b. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in an urban renewal ~~project~~ area on the effective date of the ordinance or initial adoption of the plan, but to which the territory has been annexed or otherwise included after

the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance, ~~or initial adoption of the plan~~ which amends the plan to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the ~~project on the effective date~~ annexed area.

c. For the purposes of dividing taxes under sections 260E.4 and 260F.4, the applicable assessment roll for purposes of paragraph "a" shall be the assessment roll as of January 1 of the calendar year preceding the first written agreement providing that all or a portion of program costs are to be paid for by incremental property taxes. The community college shall file a copy of the agreement with the appropriate assessor. The assessor may, within fourteen days of such filing, physically inspect the applicable taxable business property. If upon such inspection the assessor determines that there has been a change in the value of the property from the value as shown on the assessment roll as of January 1 of the calendar year preceding the filing of the agreement and such change in value is due to new construction, additions, or improvements to existing structures, or remodeling of existing structures for which a building permit was required, the assessor shall promptly determine the value of the property as of the inspection in the manner provided in chapter 441 and that value shall be included for purposes of the jobs training project in the assessed value of the employer's taxable business property as shown on the assessment roll as of January 1 of the calendar year preceding the filing of the agreement. The assessor, within thirty days of such filing, shall notify the community college and the employer or business of that valuation which shall be included in the assessed valuation for purposes of this subsection and section 260E.4 or 260F.4. The value determined by the assessor shall reflect the change in value due solely to new construction, additions, or improvements to existing structures, or remodeling of existing structures for which a building permit was required.

2. That portion of the taxes each year in excess of such amount shall be allocated to and when collected be paid into a special fund of the municipality to pay the principal of and interest on loans, moneys advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds issued under the authority of section 403.9, subsection 1, incurred by the municipality to finance or refinance, in whole or in part, ~~the redevelopment~~ an urban renewal project within the area, except that taxes for the payment of bonds and interest of each taxing district must be collected against all taxable property within the taxing district without limitation by the provisions of this subsection. Unless and until the total assessed valuation of the taxable property in an urban renewal ~~project~~ area exceeds the total assessed value of the taxable property in such ~~project~~ area as shown by the last equalized assessment roll referred to in subsection 1 ~~of this section~~, all of the taxes levied and collected upon the taxable property in the urban renewal ~~project~~ area shall be paid into the funds for the respective taxing districts as taxes by or for ~~said~~ the taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all moneys thereafter received from taxes upon the taxable property in such urban renewal ~~project~~ area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

3. The portion of taxes mentioned in subsection 2 ~~of this section~~ and the special fund into which they shall be paid, may be irrevocably pledged by a municipality for the payment of the principal and interest on loans, advances, bonds issued under the authority of section 403.9, subsection 1, or indebtedness incurred by a municipality to finance or refinance, in whole or in part, the urban renewal project within the area.

Sec. 11. Section 403.19, subsection 5, Code 1993, is amended to read as follows:

5. A ~~city~~ municipality shall certify to the county auditor on or before December 31 the amount of loans, advances, indebtedness, or bonds which qualify for payment from the special fund referred to in subsection 2, and the filing of the certificate shall make it a duty of the auditor to provide for the division of taxes in each subsequent year until the amount of the loans, advances, indebtedness, or ~~bond~~ bonds is paid to the special fund. In any year, the county auditor

shall, upon receipt of a certified request from a ~~city~~ municipality filed prior to January 1, increase the amount to be allocated under subsection 1 in order to reduce the amount to be allocated in the following fiscal year to the special fund, to the extent that the ~~city~~ municipality does not request allocation to the special fund of the full portion of taxes which could be collected. Upon receipt of a certificate from a municipality, the auditor shall mail a copy of the certificate to each affected taxing district.

Sec. 12. Section 403.19, subsection 7, Code 1993, is amended to read as follows:

7. For the purposes of this section, a county shall include taxes levied on industrial property within an urban renewal area only. However, a county shall include taxes levied on all taxable property within an urban renewal area if all or part of the area is inside the boundaries of a city or within two miles of a city's boundary and a joint agreement is entered into pursuant to section 403.17, subsection 2.

Sec. 13. NEW SECTION. 403.21 COMMUNICATION AND COOPERATION.

1. In order to promote communication and cooperation among cities, counties, and community colleges with respect to the allocation and division of taxes, no jobs training projects as defined in chapter 260E or 260F shall be undertaken within the area of operation of a municipality after July 1, 1995, unless the municipality and the community college have entered into an agreement or have jointly adopted a plan relating to a community college's new jobs training program which shall provide for a procedure for advance notification to each affected municipality, for exchange of information, for mutual consultation, and for procedural guidelines for all such new jobs training projects, including related project financing to be undertaken within the area of operation of the municipality. The joint agreement or the plan shall state its precise duration and shall be binding on the community college and the municipality with respect to all new jobs training projects, including related project financing undertaken during its existence. The joint agreement or plan shall be effective upon adoption and shall be placed on file in the office of the secretary of the board of directors of the community college and such other location as may be stated in the joint agreement or plan. The joint agreement or plan shall also be sent to each school district which levied or certified for levy a property tax on any portion of the taxable property located in the area of operation of the municipality in the fiscal year beginning prior to the calendar year in which the plan is adopted or the agreement is reached. If no such agreement is reached or plan adopted, the community college shall not use incremental property tax revenues to fund jobs training projects within the area of operation of the municipality. Agreements entered into between a community college and a city or county pursuant to chapter 28E shall not apply.

2. The community college shall send a copy of the final agreement prepared pursuant to section 260E.3 to the department of economic development. For each year in which incremental property taxes are used to pay job training certificates issued for a project creating new jobs, the community college shall provide to the department of economic development a report of the incremental property taxes and new jobs credits from withholding generated for that year, a specific description of the training conducted, the number of employees provided program services under the project, the median wage of employees in the new jobs in the project, and the administrative costs directly attributable to the project.

3. The community college shall send a copy of the final agreement prepared pursuant to section 260F.3 to the department of economic development. For each year in which incremental property taxes are used to retire debt service on a jobs training advance issued for a project creating new jobs, the community college shall provide to the department of economic development a report of the incremental property taxes and new jobs credits from withholding generated for that year, a specific description of the training conducted, the number of employees provided program services under the project, and the median wage of employees in the new jobs in the project, and the administrative costs directly attributable to the project.

Sec. 14. EFFECTIVE DATE. Sections 5, 7, and 12 of this Act, amending Code sections 331.441, 403.12, and 403.19, subsection 7, being deemed of immediate importance, take effect upon enactment.

Sec. 15. APPLICABILITY DATES. Sections 5, 7, and 12 of this Act are applicable to projects established on or after the effective date of those sections. Section 6 of this Act, amending Code section 403.5, applies to urban renewal plans approved on or after August 31, 1994. Section 13 of this Act, enacting new section 403.21, applies to new jobs training project agreements entered into on or after July 1, 1995. The remaining sections of this Act apply to urban renewal plans approved, or new jobs training project agreements entered into, on or after January 1, 1995, except that the provision relating to century farms in section 403.17, subsection 8, as amended in this Act, applies to urban renewal plans for an economic development area approved on or after July 1, 1994.

Approved May 16, 1994

CHAPTER 1183

PUBLIC RETIREMENT SYSTEMS

H.F. 2418

†**AN ACT** relating to public retirement systems, providing for the payment of employee contributions under certain public retirement systems for certain tax purposes, making appropriations, providing implementation and applicability provisions, and providing effective and retroactive applicability dates.

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

Section 1. Section 19A.30, unnumbered paragraph 1, Code 1993, is amended to read as follows:

At the request of an employee of a state agency through contractual agreement, the director may arrange for the purchase of group or individual annuity contracts for any of the employees of that agency, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from any company the employee chooses that is authorized to do business in this state ~~and~~ or through an Iowa-licensed ~~insurance agent~~ salesperson that the employee selects, on a group or individual basis, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits afforded under section ~~403b~~ 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

Sec. 2. Section 97A.1, subsection 13, Code 1993, is amended to read as follows:

13. "Peace officer" or "peace officers" shall mean all members of the divisions of highway safety and uniformed force and criminal investigation and bureau of identification in the department of public safety, except clerical workers, including but not limited to gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, who have passed a satisfactory physical and mental examination and have been duly appointed as members of the state department of public safety in accordance with section 80.15, and the division of drug law enforcement, and arson investigators and fire prevention inspector peace officers in the department of public safety ~~hired prior to July 1, 1988~~, except clerical workers, employees of the division of capitol police, except clerical

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

workers, and the division of beer and liquor law enforcement of the department of public safety, except clerical workers.

Sec. 3. Section 97A.3, Code 1993, is amended to read as follows:

97A.3 MEMBERSHIP IN SYSTEM.

1. All members of the division of highway safety, uniformed force, and radio communications and the division of criminal investigation and bureau of identification in the department of public safety, excepting the members of the clerical force, who are employed by the state of Iowa when this chapter becomes effective, and all persons thereafter employed as members of such divisions in the department of public safety or division of drug law enforcement and arson investigators, except the members of the clerical force, shall be members of this system, except as otherwise provided in subsection 3. Effective July 1, 1994, gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, fire prevention inspector peace officers employed by the department of public safety, and employees of the division of capitol police, except clerical workers, shall be members of this system, except as otherwise provided in subsection 3 or section 97B.42B. Such members shall not be required to make contributions under any other pension or retirement system of the state of Iowa, anything to the contrary notwithstanding.

2. Should any member in any period of five consecutive years after last becoming a member, be absent from service for more than four years, or should a member become a beneficiary or die, the person shall thereupon cease to be a member of this system.

3. a. As used in this section, unless the context otherwise requires, "reemployed" or "reemployment" means the employment of a person in a position which would otherwise be included as a membership position under subsection 1, after the person has commenced receiving a service retirement allowance under section 97A.6.

b. If a person is reemployed, the person shall not become an active member of the system upon reemployment, and the person so reemployed and the state of Iowa shall not make contributions to the system based upon the person's compensation for reemployment. A person who is so reemployed shall continue to receive the service retirement allowance, and the service retirement allowance shall not be recalculated based upon the person's reemployment. Notwithstanding section 97B.41 or any other provision of law to the contrary, a person reemployed as provided in this subsection shall be exempt from chapter 97B.

~~3~~ 4. Effective July 1, 1979, a person shall not become a member of the system unless that person has passed the physical and mental examination given under the provisions of section 80.15 and unless that person has received a diploma for satisfactory completion of a training school held pursuant to the provisions of section 80.13.

Sec. 4. Section 97A.5, subsection 8, Code Supplement 1993, is amended to read as follows:

8. MEDICAL BOARD. The board of trustees shall designate a medical board to be composed of three physicians who shall arrange for and pass upon the medical examinations required under the provisions of this chapter and shall report in writing to the board of trustees, its conclusions and recommendations upon all matters duly referred to it. Each report of a medical examination under section 97A.6, subsections 3 and 5, shall include the medical board's ~~rating~~ findings in accordance with section 97A.6 as to the extent of the member's physical impairment.

Sec. 5. Section 97A.5, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13. REQUIREMENTS RELATED TO THE INTERNAL REVENUE CODE.

a. As used in this subsection, unless the context otherwise requires, "Internal Revenue Code" means the Internal Revenue Code as defined in section 422.3.

b. The funds established in section 97A.8 shall be held in trust for the benefit of the members of the system and the members' beneficiaries. No part of the corpus or income of the funds shall be used for, or diverted to, purposes other than for the exclusive benefit of the

members or the members' beneficiaries or for expenses incurred in the operation of the funds. A person shall not have any interest in, or right to, any part of the corpus or income of the funds except as otherwise expressly provided.

c. Notwithstanding any provision of this chapter to the contrary, in the event of a complete discontinuance of contributions, for reasons other than achieving fully funded status upon an actuarially determined basis, or upon termination of the funds established in section 97A.8, a member shall be vested, to the extent then funded, in the benefits which the member has accrued at the date of the discontinuance or termination.

d. Benefits payable from the funds established in section 97A.8 to members and members' beneficiaries shall not be increased due to forfeitures from other members. Forfeitures shall be used as soon as possible to reduce future contributions by the state to the pension accumulation fund, except that the rate shall not be less than the minimum rate established in section 97A.8.

e. Notwithstanding any provision of this chapter to the contrary, a member's service retirement allowance shall commence on or before the later of the following:

(1) April 1 of the calendar year following the calendar year in which the member attains the age of seventy and one-half years.

(2) April 1 of the calendar year following the calendar year in which the member retires.

f. The maximum annual benefit payable to a member by the system shall be subject to the limitations set forth in section 415 of the Internal Revenue Code, and any regulations promulgated pursuant to that section.

g. The annual compensation of a member taken in account for any purpose under this chapter shall not exceed the applicable amount set forth in section 401(a)(17) of the Internal Revenue Code, and any regulations promulgated pursuant to that section.

Sec. 6. Section 97A.6, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Once a person commences receiving a service retirement allowance pursuant to this section, if the person is reemployed, as defined in section 97A.3, the service retirement allowance shall not be recalculated based upon the person's reemployment.

Sec. 7. Section 97A.6, subsection 2, paragraph d, subparagraph (2), Code 1993, is amended to read as follows:

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, but before October 16, 1992, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 8. Section 97A.6, subsection 2, paragraph d, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, and who does not withdraw the member's contributions pursuant to section 97A.16, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 9. NEW SECTION. 97A.6B ROLLOVERS OF MEMBERS' ACCOUNTS.

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

a. "Direct rollover" means a payment by the system to the eligible retirement plan specified by the member or the member's surviving spouse.

b. "Eligible retirement plan" means either of the following that accepts an eligible rollover distribution from a member or a member's surviving spouse:

(1) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(2) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

In addition, an "eligible retirement plan" includes an annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a member.

c. "Eligible rollover distribution" means all or any portion of a member's account, except that an eligible rollover distribution does not include any of the following:

(1) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(2) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(3) The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(4) A distribution of less than two hundred dollars of taxable income.

2. Effective January 1, 1993, a member or a member's surviving spouse may elect, at the time and in the manner prescribed in rules adopted by the board of trustees, to have the system pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan, specified by the member or the member's surviving spouse, in a direct rollover. If a member or a member's surviving spouse elects a partial direct rollover, the amount of funds elected for the partial direct rollover must equal or exceed five hundred dollars.

Sec. 10. Section 97A.8, subsection 1, paragraph f, subparagraphs (6) and (7), Code 1993, are amended to read as follows:

(6) An amount equal to eight and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal ~~year~~ period beginning July 1, 1994, through December 31, 1994, and an amount equal to eight and thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal period beginning January 1, 1995, through June 30, 1995.

(7) An amount equal to nine and ~~one-tenth~~ thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal year beginning July 1, 1995.

Sec. 11. Section 97A.8, subsection 1, paragraph h, Code 1993, is amended to read as follows:

h. Notwithstanding the provisions of paragraph "f", the following transition percentages apply to members' contributions as specified:

(1) For members who on July 1, 1990, have attained the age of forty-nine years or more, an amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the pension accumulation fund for the fiscal ~~year~~ period beginning July 1, 1990, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year thereafter~~ period, the rates specified in paragraph "f", subparagraphs (4) through (8), shall apply.

(2) For members who on July 1, 1990, have attained the age of forty-eight years but have not attained the age of forty-nine years, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, and an amount equal to nine and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1991, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year thereafter~~ period, the rates specified in paragraph "f", subparagraphs (4) through (8), shall apply.

(3) For members who on July 1, 1990, have attained the age of forty-seven years but have not attained the age of forty-eight years, an amount equal to seven and one-tenth percent shall

be paid for the fiscal year beginning July 1, 1990, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to nine and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1992, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year thereafter~~ period, the rates specified in paragraph "f", subparagraphs (4) through (8), shall apply.

(4) For members who on July 1, 1990, have attained the age of forty-six years but have not attained the age of forty-seven years, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to eight and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1992, ~~and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993,~~ through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year thereafter~~ period, the rates specified in paragraph "f", subparagraphs (4) through (8), shall apply.

(5) For members who on July 1, 1990, have attained the age of forty-five years but have not attained the age of forty-six years, an amount equal to five and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to seven and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1992, ~~an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993, and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1994, and each fiscal year thereafter~~ through October 15, 1992. Commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph "f", subparagraphs (4) through (8), shall apply.

Sec. 12. Section 97A.8, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. (1) Notwithstanding paragraph "g" or other provisions of this chapter, beginning January 1, 1995, member contributions required under paragraph "f" or "h" which are picked up by the department shall be considered employer contributions for federal income tax purposes, and the department shall pick up the member contributions to be made under paragraph "f" or "h" by its employees. The department shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under paragraph "f" or "h" and shall certify the amount picked up in lieu of the member contributions to the department of revenue and finance. The department of revenue and finance shall forward the amount of the contributions picked up to the board of trustees for recording and deposit in the pension accumulation fund.

(2) Member contributions picked up by the department under subparagraph (1) shall be treated as employer contributions for federal income tax purposes only and for all other purposes of this chapter and the laws of this state shall be treated as employee contributions and deemed part of the employee's earnable compensation or salary.

Sec. 13. NEW SECTION. 97B.11A PICKUP OF EMPLOYEE CONTRIBUTIONS.

1. Notwithstanding section 97B.11 or other provisions of this chapter, beginning January 1, 1995, member contributions required under section 97B.11 which are picked up by the employer shall be considered employer contributions for federal income tax purposes, and each employer shall pick up the member contributions to be made under section 97B.11 by its employees. Each employer shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under section 97B.11 and shall pay the amount picked up in lieu of the member contributions as provided in section 97B.14.

2. Member contributions picked up by each employer under subsection 1 shall be treated as employer contributions for federal income tax purposes only and for all other purposes of this chapter and the laws of this state shall be treated as employee contributions and deemed part of the employee's wages or salary.

Sec. 14. Section 97B.14, Code 1993, is amended to read as follows:

97B.14 CONTRIBUTIONS FORWARDED.

Contributions deducted from the wages of the member or member contributions picked up by the employer under section 97B.11A and the employer's contribution shall be forwarded to the department for recording and deposited with the treasurer of the state to the credit of the Iowa public employees' retirement fund. Contributions shall be remitted monthly, if total contributions by both employee and employer amount to one hundred dollars or more each month, and shall be otherwise paid in such manner, at such times and under such conditions, either by copies of payrolls or other methods necessary or helpful in securing proper identification of the member, as may be prescribed by the department.

Sec. 15. Section 97B.25, Code 1993, is amended to read as follows:

97B.25 APPLICATIONS FOR BENEFITS.

A representative designated by the ~~administrator~~ chief benefits officer and referred to in this chapter as a retirement benefits specialist, shall promptly examine applications for retirement benefits and on the basis of facts found shall determine whether or not the claim is valid and if valid, the month with respect to which benefits shall commence, the monthly benefit amount payable, and the maximum duration. The retirement benefits specialist shall promptly notify the applicant and any other interested party of the decision and the reasons. Unless the applicant or other interested party, within thirty calendar days after the notification was mailed to the applicant's or party's last known address, files an appeal as provided in section 97B.20A, the decision is final and benefits shall be paid or denied in accord with the decision.

Sec. 16. Section 97B.41, subsection 8, paragraph a, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

"Employer" means the state of Iowa, the counties, municipalities, agencies, public school districts, all political subdivisions, and all of their departments and instrumentalities, including area agencies on aging, other than those employing persons as specified in paragraph "b", subparagraph (19), and joint planning commissions created under chapter 28E or 28I.

Sec. 17. Section 97B.41, subsection 8, paragraph b, subparagraph (1), Code Supplement 1993, is amended to read as follows:

(1) Elective officials in positions for which the compensation is on a fee basis, elective officials of school districts, elective officials of townships, and elective officials of other political subdivisions who are in part-time positions, unless the elective official makes an application to the department to be covered under this chapter. An elective official who made an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the ~~expiration of the~~ member's ~~term of office~~ termination from covered employment. A county attorney is an employee for purposes of this chapter whether that county attorney is employed on a full-time or part-time basis.

Sec. 18. Section 97B.41, subsection 8, paragraph b, subparagraph (4), unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

Members of the general assembly of Iowa and temporary employees of the general assembly of Iowa, unless such members or employees make an application to the department to be covered under this chapter. A member of the general assembly who made an application to the department to be covered under this chapter may terminate membership under this chapter by informing the department in writing of the member's ~~intent to terminate~~ termination from covered employment.

Sec. 19. Section 97B.41, subsection 8, paragraph b, Code Supplement 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (19) Employees of an area agency on aging, if as of July 1, 1994, the agency provides for participation by all of its employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code.

Sec. 20. Section 97B.41, subsection 12, Code Supplement 1993, is amended to read as follows:

12. "Membership service" means service rendered by a member after July 4, 1953. Years of membership service shall be counted to the complete quarter calendar year. However, membership service for a calendar year shall not include more than four quarters. In determining a member's period of membership service, the department shall combine all periods of service for which the member has made contributions. If the department has not maintained the accumulated contribution account of the member for a period of service, as provided pursuant to section 97B.53, subsection 6, the department shall credit the member for the service if the member submits satisfactory proof to the department that the member did make the contributions for the period of service and did not take a refund for the period of service. However, the department shall not implement the amendments to this subsection, as enacted in this Act, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this subsection and to section 97B.53, subsections 3 and 7, section 97B.53, subsection 6, unnumbered paragraph 1, and section 97B.70, by enacting a new subsection 4, contained in this Act, after meeting the other established priorities of the system. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.41, subsection 12, Code Supplement 1993. As used in this subsection, unless the context otherwise requires, "other established priorities of the system" means that commencing January 1 following the most recent annual actuarial valuation of the system, the department has increased the covered wage limitation from the previous year by three thousand dollars, in accordance with section 97B.41, subsection 20, paragraph "b", subparagraph (11), and that the department has implemented the amendments to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in this Act.

Sec. 21. Section 97B.41, subsection 15, paragraph a, Code Supplement 1993, is amended to read as follows:

a. Service in the armed forces of the United States ~~during a period of war or national emergency~~, if the employee was employed by the employer immediately prior to entry into the armed forces, and if the employee was released from service and returns to covered employment with the employer within twelve months of the date on which the employee has the right of release from service or within a longer period as provided by the applicable laws of the United States.

Sec. 22. Section 97B.41, subsection 18, Code Supplement 1993, is amended to read as follows:

18. "Three-year average covered wage" means a member's covered wages averaged for the highest three years of the member's service, except as otherwise provided in this subsection. The highest three years of a member's covered wages shall be determined using calendar years. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, the department may determine the wages for the third year by ~~combining the wages from the highest quarter or quarters not being used in the selection of the two highest years~~ computing the average quarter of all quarters from the member's highest calendar year of covered wages not being used in the selection of the two highest years and using the computed average quarter for each quarter in the third year in which no wages have been reported in combination with the final quarter or quarters of the member's service to create a full year. However, the department shall not use the member's final quarter of wages if using that quarter would reduce the member's three-year average covered wage. If the three-year average covered wage of a member exceeds the highest maximum covered wages in effect for a calendar year during the member's period of service, the three-year average covered wage of the member shall be reduced to the highest maximum covered wages in effect during the member's period of service.

Sec. 23. Section 97B.42, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Each employee whose employment commences after July 4, 1953, or who has not qualified for credit for prior service rendered prior to July 4, 1953, or any publicly elected official of the state or any of its political subdivisions shall become a member upon the first day in which such employee is employed. The employee shall continue to be a an active member so long as the employee continues in ~~public~~ covered employment. The employee shall cease to be ~~a~~ an active member if the employee joins another retirement system in the state which is maintained in whole or in part by public contributions or payments. If an employee joins another publicly maintained retirement system, the employee may elect to leave the employee's accumulated contributions in the retirement fund or receive a refund of the employee's accumulated contributions in the manner provided for members who are terminating covered employment pursuant to section 97B.53. However, if an employee joins another publicly maintained retirement system and leaves the employee's accumulated contributions in the retirement fund, the employee shall not be eligible to receive retirement benefits until the employee has a bona fide retirement from employment with a covered employer as provided in section 97B.52A, or until the employee would otherwise be eligible to receive benefits upon attaining the age of seventy years as provided in section 97B.46.

Employment shall not be covered under this chapter until the employment is covered under the federal Social Security Act and any agreements which are required pursuant to chapter 97C are effective.

Sec. 24. Section 97B.42, unnumbered paragraph 5, Code 1993, is amended to read as follows:

Notwithstanding any other provision of this section, commencing July 1, 1994, a member who is employed by a community college may elect coverage under an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system, if the board of directors of the community college has approved the alternative system pursuant to section 260C.23. However, the employer's annual contribution in dollars to the alternative retirement benefits system shall not exceed the annual contribution in dollars which the employer would contribute if the employee had elected to remain an active member under this chapter, as set forth in section 97B.11. A member employed by a community college who elects coverage under an alternative retirement benefits system may withdraw the member's accumulated contributions effective when coverage under the alternative benefits system commences. A member who is employed by a community college prior to July 1, 1994, must file an election for coverage under the alternative retirement benefits system with the department and the employing community college within eighteen months of the first day on which coverage commences under the community college's alternative retirement benefits system, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in that community college's alternative retirement benefits system at a later date. Employees of a community college hired on or after July 1, 1994, must file an election for coverage under the alternative retirement benefits system with the department and the employing community college within sixty days of commencing employment, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in that community college's alternative retirement benefits system at a later date. The department shall cooperate with the boards of directors of the community colleges to facilitate the implementation of this provision.

Sec. 25. NEW SECTION. 97B.42A OPTIONAL MEMBERSHIP.

Commencing July 1, 1994, a person who is newly hired in a position in which the person may elect coverage by filing an application under section 97B.41, subsection 8, paragraph "b", must file an application within sixty days of employment in the position in order to be covered under this chapter. A person who is employed in a position in which the person may elect coverage under section 97B.41, subsection 8, paragraph "b", prior to July 1, 1994, but who has not filed an application prior to that date, must file an application on or before July 1, 1995,

in order to be covered under this chapter. Coverage will begin when the election has been approved by the department and shall apply prospectively from that date. If an application is approved pursuant to section 97B.41, subsection 8, paragraph "b", or this section, the member shall not terminate active membership until the member terminates covered employment.

Sec. 26. NEW SECTION. 97B.42B OPTIONAL MEMBERSHIP FOR CERTAIN PUBLIC SAFETY EMPLOYEES.

1. Commencing July 1, 1994, a person who is newly hired in the following positions in the department of public safety shall be a member of the Iowa department of public safety peace officers' retirement, accident and disability system established in chapter 97A:

a. Gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities.

b. Fire prevention inspector peace officers.

c. Employees of the division of capitol police, except clerical workers.

2. Commencing July 1, 1994, notwithstanding any other provision of law to the contrary, a member who is employed in a position specified in subsection 1 prior to July 1, 1994, may elect coverage under the Iowa department of public safety peace officers' retirement, accident and disability system established in chapter 97A, in lieu of continuing contributions to the Iowa public employees' retirement system, or may remain a member of the Iowa public employees' retirement system. A member who is employed in a position specified in subsection 1 prior to July 1, 1994, must file an election for coverage under the Iowa department of public safety peace officers' retirement, accident and disability system with the board of trustees established in section 97A.5 on or before July 1, 1995, or the employee shall remain a member under this chapter and shall not be eligible to elect to participate in the system established pursuant to chapter 97A at a later date pursuant to this section. The board of trustees established in section 97A.5 shall notify the department of personnel of elections received pursuant to this section, and the board of trustees and the department shall cooperate to facilitate the implementation of this section. Coverage under chapter 97A shall commence, and coverage as an active member under this chapter shall cease, when the election has been approved by the board of trustees established in section 97A.5.

3. If an employee elects coverage under chapter 97A as provided in subsection 2 and the election is approved by the board of trustees established in section 97A.5, membership in the Iowa public employees' retirement system shall cease, and the employee shall be transferred to membership in the Iowa department of public safety peace officers' retirement, accident and disability system. The department of personnel shall transfer the accumulated contributions of these employees to the treasurer of state for deposit in the pension accumulation fund established in section 97A.8. However, employer contributions which were made with respect to the employees while the employees were members of the Iowa public employees' retirement system shall remain in the fund established in section 97B.7, and any costs pertaining to the payment of employer contributions to the system established in chapter 97A with respect to the period of time during which the employees were members of the Iowa public employees' retirement system, or any other costs related to the transfer, shall be borne by the system established in chapter 97A, notwithstanding any other provision of law to the contrary.

4. Notwithstanding any other provision of law to the contrary, if the board of trustees established in section 97A.5 approves an election pursuant to subsection 2, the employees transferred from coverage under this chapter to coverage under the system established in chapter 97A shall receive credit for years of service under chapter 97A for those years of service during which the employees were members of the Iowa public employees' retirement system and employed in positions specified in subsection 1. In addition, notwithstanding the limitation on covered wages provided in section 97B.41, subsection 20, compensation which was paid to an employee in a position specified in subsection 1 while the employee was a member pursuant to this chapter shall be included in determining the average final compensation of the employee pursuant to chapter 97A, if applicable. Employees whose membership is transferred pursuant to this section and the employer, the department of public safety, shall not be required to pay

the difference in the employee and employer contributions in effect for the period of time in which the employees were members pursuant to this chapter, as compared to the employee and employer contributions then in effect for members of the system established in chapter 97A.

5. It is the intent of the general assembly that in administering the provisions of this section, the board of trustees established in section 97A.5 and the department of personnel shall interpret this section in a manner which provides that the employees whose membership is transferred shall not lose benefits which would have otherwise accrued had the employees been members of the system established in chapter 97A during the period of time in which the employees were actually members of the Iowa public employees' retirement system.

Sec. 27. Section 97B.45, unnumbered paragraph 2, Code 1993, is amended to read as follows:

A member may retire after the member's sixty-fifth birthday except as otherwise provided in section 97B.46. A member retiring on or after the normal retirement date, as provided in section 97B.46, shall submit a written notice to the department setting forth the date the retirement is to become effective. The date shall be after the member's last day of service and not before the first day of the sixth calendar month preceding the month in which the notice is filed~~, except that credit for service ceases when contributions cease as provided in section 97B.11~~.

Sec. 28. Section 97B.46, Code 1993, is amended to read as follows:

97B.46 SERVICE AFTER AGE SIXTY-FIVE.

1. A member who is not an active member of any other retirement system in the state which is maintained in whole or in part by public contributions may remain in service beyond the date the member attains the age of sixty-five. ~~The employee shall retire on the first day of the month after the last day of service.~~ The employer shall not consider age as a factor in determining the continuation of the member's service.

2. A member shall not be employed as a peace officer or as a fire fighter after attaining the age of sixty-five.

3. ~~Credit for service shall cease when contributions cease as provided by section 97B.11.~~ A member remaining in service after attaining the age of seventy years is entitled to receive a retirement allowance under section 97B.49 as applicable commencing with payment for the calendar month within which the written notice is submitted to the department, except that if the member fails to submit the notice on a timely basis, retroactive payments shall be made for no more than six months immediately preceding the month in which the written notice is submitted.

Sec. 29. Section 97B.48, subsection 1, Code 1993, is amended to read as follows:

1. Retirement allowances shall be paid monthly, except that an allowance of less than ~~two~~ six hundred ~~forty~~ dollars a year may, at the member's option, be paid as a lump sum in an actuarial equivalent amount. Receipt of the lump-sum payment by a member shall terminate any and all entitlement for the period of service covered of the member under this chapter.

Sec. 30. Section 97B.49, subsection 13, paragraphs a and b, Code Supplement 1993, are amended to read as follows:

a. A member who retired from the system between January 1, 1976, and June 30, 1982, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1992~~ 1994 and the November ~~1993~~ 1995 monthly benefit payments a retirement dividend equal to one hundred ~~forty~~ eighty-one percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

b. Each member who retired from the system between July 4, 1953, and December 31, 1975, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1992~~ 1994 and the November ~~1993~~ 1995 monthly benefit payments a retirement dividend equal to ~~one~~ two hundred ~~eighty~~ thirty-six percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

Sec. 31. Section 97B.49, subsection 13, paragraph d, Code Supplement 1993, is amended to read as follows:

d. A member who retired from the system between July 1, 1982, and June 30, 1986, or a contingent annuitant or beneficiary of such a member, shall receive with the November ~~1992~~ 1994 and the November ~~1993~~ 1995 monthly benefit payments a retirement dividend equal to ~~twenty-four~~ forty-nine percent of the monthly benefit payment the member received for the preceding June, or the most recently received benefit payment, whichever is greater. The retirement dividend does not affect the amount of a monthly benefit payment.

Sec. 32. Section 97B.49, subsection 16, paragraph a, subparagraph (4), Code Supplement 1993, is amended to read as follows:

(4) The years of membership service required under this paragraph include membership service as a sheriff or deputy sheriff and membership service as an employee in a protection occupation under paragraph "d", subparagraph (2). The years of membership service required under this paragraph also includes membership service as an airport fire fighter employed by the military division of the department of public defense.

Sec. 33. Section 97B.49, subsection 16, paragraph b, Code Supplement 1993, is amended to read as follows:

b. (1) Notwithstanding other provisions of this chapter:

~~(1)~~ (a) A member who retires from employment as a county sheriff or deputy sheriff who retires on or after July 1, 1988, and before July 1, 1990, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-two years of membership service, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of fifty percent of the member's three-year average covered wage as a member, with benefits payable during the member's lifetime.

~~(2)~~ (b) A member who retires from employment as a county sheriff or deputy sheriff who retires on or after July 1, 1990, or a member who is or has been employed as a county sheriff or deputy sheriff who retires on or after July 1, 1994, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-two years of membership service, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of the same percentage of the member's three-year average covered wage as is provided in paragraph "a", with benefits payable during the member's lifetime.

~~(3)~~ (c) The years of membership service required under this ~~paragraph~~ subparagraph shall include membership service as a sheriff or deputy sheriff and membership service under employment in a protection occupation included in paragraph "d", subparagraph (2).

~~(4)~~ (d) For the purposes of this subsection, ~~sheriff~~ "sheriff" means a county sheriff as defined in section 39.17 and ~~deputy sheriff~~ "deputy sheriff" means a deputy sheriff appointed pursuant to section 341.1 prior to July 1, 1981, or section 331.903 on or after July 1, 1981.

(2) Notwithstanding other provisions of this chapter:

(a) A member who is an airport fire fighter employed by the military division of the department of public defense or has been employed as an airport fire fighter by the military division of the department of public defense who retires on or after July 1, 1994, and at the time of retirement is at least fifty-five years of age and has completed at least twenty-two years of membership service, may elect to receive in lieu of the receipt of any benefits under subsection 5 or 15, a monthly retirement allowance equal to one-twelfth of the same percentage of the member's three-year average covered wage as is provided in paragraph "a", with benefits payable during the member's lifetime.

(b) The years of membership service required under this subparagraph shall include membership service as an airport fire fighter, regardless of whether the service occurred prior to the inclusion of airport fire fighters under this paragraph, and the inclusion of that service shall not affect the contribution rates paid by the member or the employer under this subsection.

(c) For the purposes of this subsection, "airport fire fighter" means an airport fire fighter employed by the military division of the department of public defense.

Sec. 34. Section 97B.49, subsection 16, paragraph c, unnumbered paragraph 3, Code Supplement 1993, is amended to read as follows:

For the purpose of this subsection, "fraction of years of service" means a number, not to exceed one, equal to the sum of the years of membership service for a member retiring in a protection occupation, divided by twenty-five years, or the sum of the years of membership service for a member retiring as a sheriff or deputy sheriff or airport fire fighter divided by twenty-two years.

Sec. 35. Section 97B.49, subsection 16, paragraph d, subparagraph (2), Code Supplement 1993, is amended to read as follows:

(2) A marshal ~~or police officer~~ in a city not covered under chapter 400 or a fire fighter or police officer of a city not participating in the retirement systems established in chapter 410 or 411.

Sec. 36. Section 97B.49, subsection 16, paragraph d, subparagraph (4), Code Supplement 1993, is amended by striking the subparagraph.

Sec. 37. Section 97B.49, subsection 16, paragraph d, subparagraph (6), Code Supplement 1993, is amended by striking the subparagraph.

Sec. 38. Section 97B.49, subsection 16, paragraph d, subparagraph (8), Code Supplement 1993, is amended to read as follows:

(8) A fire prevention inspector peace officer employed by the department of public safety prior to July 1, 1994, who does not elect coverage under the Iowa department of public safety peace officers' retirement, accident and disability system, as provided in section 97B.42B.

Sec. 39. Section 97B.49, subsection 16, paragraph d, Code Supplement 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (9) An employee of a judicial district department of correctional services who is employed as a probation officer III or a parole officer III.

Sec. 40. Section 97B.49, subsection 16, paragraph j, Code Supplement 1993, is amended by striking the paragraph.

Sec. 41. Section 97B.49, subsection 16, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. l. For the fiscal year commencing July 1, 1994, and each succeeding fiscal year, each judicial district department of correctional services shall pay to the department of personnel from funds appropriated to that judicial district department of correctional services, the amount necessary to pay the employer share of the cost of the additional benefits provided to employees covered under paragraph "d", subparagraph (9).

Sec. 42. Section 97B.49, subsection 16, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. m. For the fiscal year commencing July 1, 1994, and each succeeding fiscal year, there is appropriated from the general fund of the state to the department of personnel, from funds not otherwise appropriated, an amount necessary to pay the employer share of the cost of the additional benefits provided to airport fire fighters pursuant to paragraph "b", subparagraph (2).

Sec. 43. Section 97B.50, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

Except as otherwise provided in this section, a vested member, upon retirement prior to the normal retirement date other than that specified in section 97B.45, subsection 4, is entitled to receive a monthly retirement allowance determined in the same manner as provided for normal retirement in section 97B.49, subsections 1, 4, and 5, ~~of section 97B.49~~ reduced as follows:

Sec. 44. Section 97B.50, subsection 2, Code 1993, is amended to read as follows:

2. a. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the ~~United States~~ federal Social Security Act, ~~(~~42 U.S.C.~~),~~ ~~as amended to July 1, 1978~~ § 423 et seq., and who has not reached the normal retirement date, shall receive benefits under section 97B.49 and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time after July 4, 1953. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990.

b. A vested member who retires from the system due to disability and commences receiving disability benefits pursuant to the ~~United States~~ federal Railroad Retirement Act, ~~(~~45 U.S.C. § 231 et seq.~~)~~, and who has not reached the normal retirement date, shall receive benefits under section 97B.49 and shall not have benefits reduced upon retirement as required under subsection 1 regardless of whether the member has completed thirty or more years of membership service. However, the benefits shall be suspended during any period in which the member returns to covered employment. This section takes effect July 1, 1990, for a member meeting the requirements of this paragraph who retired from the system at any time since July 4, 1953. Eligible members are entitled to the receipt of retroactive adjustment payments back to July 1, 1990.

Sec. 45. Section 97B.53, subsection 3, Code 1993, is amended to read as follows:

3. The accumulated contributions of a terminated, vested member shall be credited with interest, including interest dividends, in the manner provided in section 97B.70. Interest and interest dividends shall be credited to the accumulated contributions of members who terminate service and subsequently become vested in accordance with section 97B.70. However, the department shall not implement the amendments to this subsection or to subsection 6, unnumbered paragraph 1, or to subsection 7, as enacted in this Act, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to these provisions of this section and the amendments to section 97B.41, subsection 12, and section 97B.70, by enacting a new subsection 4, contained in this Act, after meeting the other established priorities of the system, as defined in section 97B.41, subsection 12. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.53, subsections 3 and 7, and section 97B.53, subsection 6, unnumbered paragraph 1, 1993 Code of Iowa.

Sec. 46. Section 97B.53, subsection 6, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A member who terminates employment before the member is vested and who does not claim and receive a refund of the member's accumulated contributions within ~~five~~ ten years of the date of termination shall, if the member makes claim for a refund more than ~~five~~ ten years after the date of termination, be required to submit proof satisfactory to the department of the member's entitlement to the refund~~, but in no case shall interest be allowed upon the accumulated contributions for any period in which the member is not an employee~~. Interest and interest dividends on the accumulated contributions shall only be credited if provided in accordance with section 97B.70. The department is under no obligation to maintain the accumulated contribution accounts of such former members for more than ~~five~~ ten years after their dates of termination.

Sec. 47. Section 97B.53, subsection 7, Code 1993, is amended to read as follows:

7. Any member whose employment is terminated ~~after one year of employment but before the member has accumulated four or more years of employment, either under the provisions~~

~~of this chapter or as a result of prior service credits,~~ may elect to leave the member's accumulated contributions in the retirement fund. ~~In the event the member returns to public employment at any time within four years after this termination of employment, the member shall be entitled to resume membership in the system with the same credits for prior service and accumulated contributions that the member had earned when the member's original employment was terminated. No interest shall be credited on the member's accumulated contributions nor on the member's employer's accumulated contributions during the period from the time of the member's termination of employment to the member's resumption of employment.~~

~~Any member who has resumed employment under the provisions of this subsection shall not be eligible for any second period of absence from membership as a result of termination of service.~~

Sec. 48. NEW SECTION. 97B.53B ROLLOVERS OF MEMBERS' ACCOUNTS.

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

a. "Direct rollover" means a payment by the system to the eligible retirement plan specified by the member or the member's surviving spouse.

b. "Eligible retirement plan" means either of the following that accepts an eligible rollover distribution from a member or a member's surviving spouse:

(1) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(2) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

In addition, an "eligible retirement plan" includes an annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a member.

c. "Eligible rollover distribution" means all or any portion of a member's account, except that an eligible rollover distribution does not include any of the following:

(1) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(2) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(3) The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(4) A distribution of less than two hundred dollars of taxable income.

2. Effective January 1, 1993, a member or a member's surviving spouse may elect, at the time and in the manner prescribed in rules adopted by the department, to have the department pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan, specified by the member or the member's surviving spouse, in a direct rollover. If a member or a member's surviving spouse elects a partial direct rollover, the amount of funds elected for the partial direct rollover must equal or exceed five hundred dollars.

Sec. 49. Section 97B.56, Code 1993, is amended to read as follows:

97B.56 ABOLISHED SYSTEM – LIQUIDATION FUND.

The assets of the old-age and survivors' liquidation fund, established by sections 97.50 to 97.53 and any future payments or assets payable to the old-age and survivors' liquidation fund, are hereby transferred to the retirement fund, and all payments hereafter due in accordance with the provisions of said sections shall be paid from the retirement fund~~, and the liability for such payments shall be considered as allowances arising from prior service as provided in section 97B.54~~.

~~Commencing July 1, 1967, and each year thereafter, the contributions required to fund the actuarial liabilities from the abolished system shall be determined in accordance with section 97B.54.~~

Sec. 50. Section 97B.61, unnumbered paragraph 2, Code 1993, is amended to read as follows:

After accepting the actuarial methods and assumptions of the valuation, the department shall certify to the governor the contribution rates determined thereby as the rates necessary and sufficient for members and employers to fully fund the benefits and retirement allowances being credited ~~for membership service and to make the accrued liability contributions in level installments required for prior service under section 97B.54.~~

Sec. 51. Section 97B.66, unnumbered paragraphs 1 and 2, Code Supplement 1993, are amended to read as follows:

A vested or retired member who was a member of the teachers insurance and annuity association-college retirement equity fund at any time between July 1, 1967 and June 30, 1971 and who became a member of the system on July 1, 1971, upon submitting verification of service and wages earned during the applicable period of service under the teachers insurance and annuity association-college retirement equity fund, may make employer and employee contributions to the system based upon the covered wages of the member and the covered wages and the contribution rates in effect for all or a portion of that period of service and receive credit for membership service under this system equivalent to the ~~number of years~~ applicable period of membership service in the teachers insurance and annuity association-college retirement equity fund for which the contributions have been made. In addition, a member making employer and employee contributions because of membership in the teachers insurance and annuity association-college retirement equity fund under this section who was a member of the system on June 30, 1967 and withdrew the member's accumulated contributions because of membership on July 1, 1967 in the teachers insurance and annuity association-college retirement equity fund, may make employee contributions to the system for all or a portion of the period of service under the system prior to July 1, 1967. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 2 contained in this Act shall be implemented, for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, as long as the increments represent full years and not a portion of a year. However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 2, as enacted in this Act, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and unnumbered paragraph 2 and to section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in this Act, after meeting the other established priority of the system. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.66, unnumbered paragraphs 1 and 2, Code Supplement 1993. As used in this section, unless the context otherwise requires, "other established priority of the system" means that commencing January 1 following the most recent annual actuarial valuation of the system, the department has increased the covered wage limitation from the previous year by three thousand dollars, in accordance with section 97B.41, subsection 20, paragraph "b", subparagraph (11).

The contributions paid by the vested or retired member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, by the member for ~~that~~ the applicable period of service, and the employer contribution for ~~that~~ the applicable period of service under the teachers insurance and annuity association-college retirement equity fund, that would have

been or had been contributed by the vested or retired member and the employer, if applicable, plus interest on the contributions that would have accrued for the applicable period from the date the previous applicable period of service commenced under this system or from the date the service of the member in the teachers insurance and annuity association-college retirement equity fund commenced to the date of payment of the contributions by the member equal to two percent plus the interest dividend rate applicable for each year.

Sec. 52. Section 97B.70, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Effective upon the date that the department determines that this subsection shall be implemented, interest and interest dividends shall be credited to the contributions of a person who leaves the contributions in the retirement fund upon termination from covered employment prior to achieving vested status, but who subsequently achieves vested status. The interest and interest dividends shall be credited to the contributions commencing either upon the date that the department determines that this subsection shall be implemented, or the date on which the person becomes a vested member, whichever is later. Interest and interest dividends shall cease upon the first of the month coinciding with or next following the person's retirement date. If the department no longer maintains the accumulated contribution account of the person pursuant to section 97B.53, but the person submits satisfactory proof to the department that the person did make the contributions, the department shall credit interest and interest dividends in the manner provided in this subsection. However, the department shall not implement this subsection, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the enactment of this subsection and the amendments to section 97B.41, subsection 12, section 97B.53, subsections 3 and 7, and section 97B.53, subsection 6, unnumbered paragraph 1, contained in this Act, after meeting the other established priorities of the system, as defined in section 97B.41, subsection 12.

Sec. 53. Section 97B.72, unnumbered paragraphs 1 and 2, Code Supplement 1993, are amended to read as follows:

Persons who are members of the Seventy-first General Assembly or a succeeding general assembly who submit proof to the department of membership in the general assembly during any period beginning July 4, 1953, may make contributions to the system for all or a portion of the period of service in the general assembly, and receive credit for the applicable period for which contributions are made. The contributions made by the member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, which would have been made if the member of the general assembly had been a member of the system during the ~~member's service in the general assembly~~ applicable period. The proof of membership in the general assembly and payment of accumulated contributions shall be transmitted to the department. ~~Persons eligible to receive retirement allowances under this section shall be eligible to commence receiving retirement allowances on January 14, 1985.~~ A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 2 contained in this Act shall be implemented, for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, as long as the increments represent full years and not a portion of a year. However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 2, as enacted in this Act, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and unnumbered paragraph 2 and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in this Act, after meeting the other established

priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.72, unnumbered paragraphs 1 and 2, Code Supplement 1993.

There is appropriated from moneys available to the general assembly under section 2.12 an amount sufficient to pay the contributions of the employer based on the period of service ~~of the members~~ for which the members have paid accumulated contributions in an amount equal to the contributions which would have been made if the members of the general assembly who made employee contributions had been members of the system during ~~their~~ the applicable period of service in the general assembly plus two percent interest plus interest dividends for all completed calendar years and for any completed calendar year for which the interest dividend has not been declared and for completed months of partially completed calendar years at two percent interest plus the interest dividend rate calculated for the previous year, compounded annually, from the end of the calendar year in which contribution was made to the first day of the month of such date.

Sec. 54. Section 97B.72A, subsection 1, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

An active or vested member of the system who was a member of the general assembly prior to July 1, 1988, may make contributions to the system for all or a portion of the period of service in the general assembly. The contributions made by the member shall be equal to the accumulated contributions as defined in section 97B.41, subsection 2, which would have been made if the member of the general assembly had been a member of the system during the applicable period of service in the general assembly. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or for portions of the period of service, and, effective upon the date that the department determines that the amendments to this paragraph contained in this Act shall be implemented, if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, as long as the increments represent full years and not a portion of a year. The member of the system shall submit proof to the department of membership in the general assembly. The department shall credit the member with the period of membership service for which contributions are made. However, the department shall not implement the amendments to this paragraph, as enacted in this Act, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.73A, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in this Act, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.72A, subsection 1, unnumbered paragraph 1, Code Supplement 1993.

Sec. 55. Section 97B.72A, subsection 2, Code Supplement 1993, is amended by striking the subsection.

Sec. 56. Section 97B.73, Code Supplement 1993, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of this section to the contrary, effective July 1, 1994, a vested or retired member must have membership service within the current calendar year in order to make contributions in any manner provided by this section.

Sec. 57. Section 97B.73A, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

A part-time county attorney may elect in writing to the department to make employee contributions to the system for the county attorney's previous service as a county attorney and

receive credit for membership service in the system for the applicable period of service as a part-time county attorney for which employee contributions are made. The contributions paid by the member shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 2, for ~~that~~ the applicable period of membership service. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, effective upon the date that the department determines that the amendments to this paragraph contained in this Act shall be implemented, for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, as long as the increments represent full years and not a portion of a year. A member who elects to make contributions under this section shall notify the county board of supervisors of the member's election, and the county board of supervisors shall pay to the department the employer contributions that would have been contributed by the employer under section 97B.11 plus interest on the contributions that would have accrued if the county attorney had been a member of the system for ~~that~~ the applicable period of service. However, the department shall not implement the amendments to this paragraph, as enacted in this Act, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, and section 97B.74, unnumbered paragraphs 1 and 2, contained in this Act, after meeting the other established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.73A, unnumbered paragraph 1, Code Supplement 1993.

Sec. 58. Section 97B.74, unnumbered paragraphs 1 and 2, Code Supplement 1993, are amended to read as follows:

~~Effective January 1, 1991, an~~ An active, vested, or retired member who was a member of the system at any time on or after July 4, 1953, and who received a refund of the member's contributions for that period of membership service, may elect in writing to the department to make contributions to the system for ~~that~~ all or a portion of the period of membership service for which a refund of contributions was made, and receive credit for the period of membership service for which contributions are made. The contributions repaid by the member for such service shall be equal to the accumulated contributions, as defined in section 97B.41, subsection 2, received by the member for ~~that~~ the applicable period of membership service plus interest on the accumulated contributions for the applicable period from the date of receipt by the member to the date of repayment equal to two percent plus the interest dividend rate applicable for each year compounded annually.

An active member must have at least one quarter's reportable wages on file and have membership service, including that period of membership service for which a refund of contributions was made, sufficient to give the member vested status. A member making contributions pursuant to this section may make the contributions either for the entire applicable period of service, or, effective upon the date that the department determines that the amendments to this paragraph and unnumbered paragraph 1 contained in this Act shall be implemented, for portions of the period of service, and if contributions are made for portions of the period of service, the contributions shall be in increments of one or more years, as long as the increments represent full years and not a portion of a year. However, the department shall not implement the amendments to this paragraph or unnumbered paragraph 1, as enacted in this Act, unless and until the department determines that the most recent annual actuarial valuation of the retirement system indicates that the employer and employee contribution rates in effect under section 97B.11 can absorb the amendments to this paragraph and to unnumbered paragraph 1 and to section 97B.66, unnumbered paragraphs 1 and 2, section 97B.72, unnumbered paragraphs 1 and 2, section 97B.72A, subsection 1, unnumbered paragraph 1, and section 97B.73A, unnumbered paragraph 1, contained in this Act, after meeting the other

established priority of the system, as defined in section 97B.66. Until the amendments are implemented, the department shall continue to implement the provisions of section 97B.74, unnumbered paragraphs 1 and 2, Code Supplement 1993.

Sec. 59. Section 97B.80, Code Supplement 1993, is amended by adding the following new paragraph after unnumbered paragraph 1:

NEW UNNUMBERED PARAGRAPH. Notwithstanding any provision of this section to the contrary, effective July 1, 1994, a vested or retired member must have membership service within the current calendar year in order to make contributions in any manner provided by this section.

Sec. 60. Section 260C.23, subsection 9, Code Supplement 1993, is amended to read as follows:

9. At the request of an employee through contractual agreement the board may arrange for the purchase of group or individual annuity contracts for any of its employees, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from any company the employee chooses that is authorized to do business in this state ~~and~~ or through an Iowa-licensed ~~insurance agent~~ salesperson that the employee selects, on a group or individual basis, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. If an existing tax-sheltered annuity contract is to be replaced by a new contract, the agent or representative of the company shall submit a letter of intent by registered mail to the company being replaced, to the insurance commissioner of the state of Iowa, and to the agent's or representative's own company at least thirty days prior to any action. This letter of intent shall contain the policy number and description of the contract being replaced and a description of the replacement contract. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

Sec. 61. Section 260C.23, subsection 17, Code Supplement 1993, is amended to read as follows:

17. Commencing July 1, 1994, provide for an alternative retirement benefits system, which is issued by or through a nonprofit corporation issuing retirement annuities exclusively to educational institutions and their employees, for persons employed by the community college who are members of the Iowa public employees' retirement system on July 1, 1994, or who are new employees, and who elect coverage under the alternative retirement benefits system pursuant to section 97B.42, in lieu of continuing or commencing contributions to the Iowa public employees' retirement system. The system for employee and employer contributions under the alternative system shall be ~~substantially the same as~~ similar to that provided by the state board of regents under the teachers insurance annuity association-college retirement equities fund, ~~and~~ except that the employer's annual contribution in dollars shall not exceed the ~~employer's contribution rate established for employees of the state board of regents who are under that~~ annual contribution in dollars which the employer would contribute if the employee had elected to remain an active member pursuant to the Iowa public employee's retirement system, as set forth in section 97B.11.

Sec. 62. Section 262.21, unnumbered paragraph 1, Code 1993, is amended to read as follows:

At the request of an employee through contractual agreement the board may arrange for the purchase of group or individual annuity contracts for any of its employees, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from any company the employee chooses that is authorized to do business in this state~~, or the board may arrange for the purchase of an individual mutual fund contract from any company the employee chooses from a~~

~~broker-dealer, salesperson, or mutual fund registered in this state,~~ or through an Iowa-licensed salesperson that the employee selects, on a group or individual basis, for retirement or other purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section ~~403b~~ 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

Sec. 63. Section 273.3, subsection 14, Code 1993, is amended to read as follows:

14. At the request of an employee through contractual agreement the board may purchase group or individual annuity contracts for employees, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from ~~an insurance organization or mutual fund~~ any company the employee chooses ~~for retirement or other purposes~~ that is authorized to do business in this state, ~~and~~ or through an Iowa-licensed ~~insurance agent, securities dealer, or~~ salesperson that the employee selects, on a group or individual basis, for retirement or other purposes. The board may make payroll deductions for the purpose of paying the entire premium due, and to become due, in accordance with the terms of the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section ~~403b~~ 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

Sec. 64. NEW SECTION. 294.10A PICKUP OF TEACHER ASSESSMENTS.

1. Notwithstanding section 294.9 or other provisions of this chapter, beginning January 1, following the submission by the board of trustees of an application to the federal internal revenue service requesting qualification in accordance with the requirements of the Internal Revenue Code, as defined in section 422.3, teacher assessments required under section 294.9 which are picked up by the employing school district shall be considered employer contributions for federal income tax purposes, and each employing school district establishing a pension and annuity retirement system pursuant to this chapter shall pick up the teacher assessments to be made under section 294.9 by its employees. Each employing school district shall pick up these teacher assessments by reducing the salary of each of the teachers covered by this chapter by the amount which each teacher is required to contribute through assessments under section 294.9 and shall pay to the board of trustees the amount picked up in lieu of the teacher assessments for recording and deposit in the fund.

2. Teacher assessments picked up by each employing school district under subsection 1 shall be treated as employer contributions for federal income tax purposes only and for all other purposes of this chapter and the laws of this state shall be treated as teacher assessments and deemed part of the teacher's wages or salary.

Sec. 65. Section 294.16, Code 1993, is amended to read as follows:

294.16 ANNUITY CONTRACTS.

At the request of an employee through contractual agreement a school district may purchase group or individual annuity contracts for employees, which annuity contracts are issued by a nonprofit corporation issuing retirement annuities exclusively for educational institutions and their employees or are purchased from ~~an insurance organization or mutual fund~~ any company the employee chooses that is authorized to do business in this state ~~and~~ or through an Iowa-licensed ~~insurance agent or from a securities dealer,~~ salesperson, ~~or mutual fund registered in this state~~ that the employee selects, on a group or individual basis, for retirement or other

purposes, and may make payroll deductions in accordance with the arrangements for the purpose of paying the entire premium due and to become due under the contract. The deductions shall be made in the manner which will qualify the annuity premiums for the benefits under section 403(b) of the Internal Revenue Code, as defined in section 422.3. The employee's rights under the annuity contract are nonforfeitable except for the failure to pay premiums. As used in this section, unless the context otherwise requires, "annuity contract" includes any custodial account which meets the requirements of section 403(b)(7) of the Internal Revenue Code, as defined in section 422.3.

Sec. 66. Section 411.3, Code 1993, is amended to read as follows:

411.3 MEMBERSHIP.

1. All persons who become police officers or fire fighters after the date the city is required to come under the retirement system, shall become members of the retirement system as a condition of their employment, except that a police chief or a fire chief who would not complete twenty-two years of service under this chapter by the time the chief attains fifty-five years of age shall, upon written request to the system, be exempt from this chapter, and except as otherwise provided in subsection 3. Notwithstanding section 97B.41, a police chief or fire chief who is exempt from this chapter is exempt from chapter 97B. Members of the system established in this chapter shall not be required to make contributions under any other pension or retirement system of a city, county, or the state of Iowa, anything to the contrary notwithstanding.

2. Should any member in any period of five consecutive years after last becoming a member, be absent from service for more than four years, or should the member become a beneficiary or die, the member shall thereupon cease to be a member of the system.

3. a. As used in this section, unless the context otherwise requires, "reemployed" or "reemployment" means the employment of a person as a police officer or firefighter by any participating city after the person has commenced receiving a service retirement allowance under section 411.6.

b. If a person is reemployed, the person shall not become an active member of the system upon reemployment, and the person so reemployed and the participating city shall not make contributions to the system based upon the person's compensation for reemployment. A person who is so reemployed shall continue to receive the service retirement allowance, and the service retirement allowance shall not be recalculated based upon the person's reemployment. Notwithstanding section 97B.41 or any other provision of law to the contrary, a person reemployed as provided in this subsection shall be exempt from chapter 97B.

Sec. 67. Section 411.5, subsection 8, Code Supplement 1993, is amended to read as follows:

8. MEDICAL BOARD. The system shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this chapter, except that for examinations required because of disability three physicians from the University of Iowa hospitals and clinics who shall pass upon the medical examinations required for disability retirements, and shall report to the system in writing its conclusions and recommendations upon all matters referred to it. Each report of a medical examination under section 411.6, subsections 3 and 5, shall include the medical board's ~~rating~~ findings in accordance with section 411.6 as to the extent of the member's physical impairment.

Sec. 68. Section 411.5, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12. REQUIREMENTS RELATED TO THE INTERNAL REVENUE CODE.

a. As used in this subsection, unless the context otherwise requires, "Internal Revenue Code" means the federal Internal Revenue Code as defined in section 422.3.

b. The fund established in section 411.8 shall be held in trust for the benefit of the members of the system and the members' beneficiaries. No part of the corpus or income of the fund shall be used for, or diverted to, purposes other than for the exclusive benefit of the members

or the members' beneficiaries or for expenses incurred in the operation of the fund. A person shall not have any interest in, or right to, any part of the corpus or income of the fund except as otherwise expressly provided.

c. Notwithstanding any provision of this chapter to the contrary, in the event of a complete discontinuance of contributions, for reasons other than achieving fully funded status upon an actuarially determined basis, or upon termination of the fund established in section 411.8, a member shall be vested, to the extent then funded, in the benefits which the member has accrued at the date of the discontinuance or termination.

d. Benefits payable from the fund established in section 411.8 to members and members' beneficiaries shall not be increased due to forfeitures from other members. Forfeitures shall be used as soon as possible to reduce future contributions by the cities to the fund, except that the rate shall not be less than the minimum rate established in section 411.8.

e. Notwithstanding any provision of this chapter to the contrary, a member's service retirement allowance shall commence on or before the later of the following:

(1) April 1 of the calendar year following the calendar year in which the member attains the age of seventy and one-half years.

(2) April 1 of the calendar year following the calendar year in which the member retires.

f. The maximum annual benefit payable to a member by the system shall be subject to the limitations set forth in section 415 of the federal Internal Revenue Code, and any regulations promulgated pursuant to that section.

g. The annual compensation of a member taken in account for any purpose under this chapter shall not exceed the applicable amount set forth in section 401(a)(17) of the federal Internal Revenue Code, and any regulations promulgated pursuant to that section.

Sec. 69. Section 411.6, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Once a person commences receiving a service retirement allowance pursuant to this section, if the person is reemployed, as defined in section 411.3, the service retirement allowance shall not be recalculated based upon the person's reemployment.

Sec. 70. Section 411.6, subsection 2, paragraph d, subparagraph (2), Code 1993, is amended to read as follows:

(2) For a member who terminates service, other than by death or disability, on or after July 1, 1991, but before October 16, 1992, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years, excluding years of service after the member's fifty-fifth birthday. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 71. Section 411.6, subsection 2, paragraph d, Code 1993, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) For a member who terminates service, other than by death or disability, on or after October 16, 1992, and who does not withdraw the member's contributions pursuant to section 411.23, upon the member's retirement there shall be added six-tenths percent of the member's average final compensation for each year of service over twenty-two years. However, this subparagraph does not apply to more than eight additional years of service.

Sec. 72. Section 411.6, subsection 10, Code 1993, is amended to read as follows:

10. PENSIONS OFFSET BY COMPENSATION BENEFITS. Any amounts which may be paid or payable by the said cities under the provisions of any workers' compensation or similar law to a member or to the dependents of a member on account of any disability or death, shall be offset against and payable in lieu of any benefits payable ~~out of funds provided by the said cities~~ under the provisions of this chapter on account of the same disability or death. ~~In case the present value of the total commuted benefits under said workers' compensation or~~

~~similar law is less than the pension reserve on the benefits otherwise payable from funds provided by the said cities under this chapter, then the present value of the commuted payments shall be deducted from the pension reserve and such benefits as may be provided by the pension reserve so reduced shall be payable under the provisions of this chapter.~~

Sec. 73. NEW SECTION. 411.6B ROLLOVERS OF MEMBERS' ACCOUNTS.

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

a. "Direct rollover" means a payment by the system to the eligible retirement plan specified by the member or the member's surviving spouse.

b. "Eligible retirement plan" means either of the following that accepts an eligible rollover distribution from a member or a member's surviving spouse:

(1) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(2) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

In addition, an "eligible retirement plan" includes an annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a member.

c. "Eligible rollover distribution" means all or any portion of a member's account, except that an eligible rollover distribution does not include any of the following:

(1) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(2) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(3) The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(4) A distribution of less than two hundred dollars of taxable income.

2. Effective January 1, 1993, a member or a member's surviving spouse may elect, at the time and in the manner prescribed in rules adopted by the board of trustees, to have the system pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan, specified by the member or the member's surviving spouse, in a direct rollover. If a member or a member's surviving spouse elects a partial direct rollover, the amount of funds elected for the partial direct rollover must equal or exceed five hundred dollars.

Sec. 74. Section 411.8, subsection 1, paragraph f, subparagraphs (6) through (8), Code 1993, are amended to read as follows:

(6) An amount equal to eight and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal ~~year~~ period beginning July 1, 1994, through December 31, 1994, and an amount equal to eight and thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal period beginning January 1, 1995, through June 30, 1995.

(7) An amount equal to nine and ~~one-tenth~~ thirty-five hundredths percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal year beginning July 1, 1995.

(8) Beginning July 1, 1996, and each fiscal year thereafter, an amount equal to the member's contribution rate times each member's compensation shall be paid to the fund from the earnable compensation of the member. For the purposes of this subparagraph, the member's contribution rate shall be nine and ~~one-tenth~~ thirty-five hundredths percent. However, the system shall increase the member's contribution rate as necessary to cover any increase in cost

to the system resulting from statutory changes which are enacted by any session of the general assembly meeting after January 1, 1991, if the increase cannot be absorbed within the contribution rates otherwise established pursuant to this paragraph, but subject to a maximum employee contribution rate of eleven and three-tenths percent.

The contribution rate increases specified in this Act pursuant to this chapter and chapter 97A shall be the only member contribution rate increases for these systems resulting from the statutory changes enacted in this Act, and shall apply only to the fiscal periods specified in this Act. After the employee contribution reaches eleven and three-tenths percent, sixty percent of the additional cost of such statutory changes shall be paid by employers under paragraph "c" and forty percent of the additional cost shall be paid by employees under this paragraph.

Sec. 75. Section 411.8, subsection 1, paragraph h, Code 1993, is amended to read as follows:

h. Notwithstanding the provisions of paragraph "f", the following transition percentages apply to members' contributions as specified:

(1) For members who on July 1, 1990, have attained the age of forty-nine years or more, an amount equal to nine and one-tenth percent of each member's compensation from the earnable compensation of the member shall be paid to the fund for the fiscal ~~year~~ period beginning July 1, 1990, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year until the fiscal year beginning July 1, 1996, when~~ period, the rates specified in paragraph "f", ~~subparagraph~~ subparagraphs (4) through (8), ~~applies~~ shall apply.

(2) For members who on July 1, 1990, have attained the age of forty-eight years but have not attained the age of forty-nine years, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, and an amount equal to nine and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1991, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year thereafter until the fiscal year beginning July 1, 1996, when~~ period, the rates specified in paragraph "f", ~~subparagraph~~ subparagraphs (4) through (8), ~~applies~~ shall apply.

(3) For members who on July 1, 1990, have attained the age of forty-seven years but have not attained the age of forty-eight years, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to nine and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1992, through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year until the fiscal year beginning July 1, 1996, when~~ period, the rates specified in paragraph "f", ~~subparagraph~~ subparagraphs (4) through (8), ~~applies~~ shall apply.

(4) For members who on July 1, 1990, have attained the age of forty-six years but have not attained the age of forty-seven years, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to seven and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, an amount equal to eight and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1992, ~~and an amount equal to nine and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993,~~ through October 15, 1992, and commencing October 16, 1992, and for each subsequent fiscal ~~year until the fiscal year beginning July 1, 1996, when~~ period, the rates specified in paragraph "f", ~~subparagraph~~ subparagraphs (4) through (8), ~~applies~~ shall apply.

(5) For members who on July 1, 1990, have attained the age of forty-five years but have not attained the age of forty-six years, an amount equal to five and one-tenth percent shall be paid for the fiscal year beginning July 1, 1990, an amount equal to six and one-tenth percent shall be paid for the fiscal year beginning July 1, 1991, and an amount equal to seven and one-tenth percent shall be paid for the fiscal ~~year~~ period beginning July 1, 1992, ~~an amount equal to eight and one-tenth percent shall be paid for the fiscal year beginning July 1, 1993, and an amount equal to nine and one-tenth percent shall be paid for the fiscal years beginning July 1, 1994, and July 1, 1995~~ through October 15, 1992. ~~Beginning July 1, 1996,~~ Commencing October 16, 1992, and for each subsequent fiscal period, the rates specified in paragraph "f", ~~subparagraph~~ subparagraphs (4) through (8), ~~applies~~ shall apply.

Sec. 76. Section 411.8, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. i. (1) Notwithstanding paragraph "g" or other provisions of this chapter, beginning January 1, 1995, member contributions required under paragraph "f" or "h" which are picked up by the city shall be considered employer contributions for federal income tax purposes, and each city shall pick up the member contributions to be made under paragraph "f" or "h" by its employees. Each city shall pick up these contributions by reducing the salary of each of its employees covered by this chapter by the amount which each employee is required to contribute under paragraph "f" or "h" and shall pay the amount picked up in lieu of the member contributions to the board of trustees for recording and deposit in the fund.

(2) Member contributions picked up by each city under subparagraph (1) shall be treated as employer contributions for federal income tax purposes only and for all other purposes of this chapter and the laws of this state shall be treated as employee contributions and deemed part of the employee's earnable compensation or salary.

Sec. 77. Section 422.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 29. Add, to the extent not included, the amount of the taxpayer's employee contributions picked up by the taxpayer's employer under chapter 97A or 411. The director shall by rule provide a formula to exclude income, to the extent included, from adjusted gross income amounts added under this subsection which are subsequently returned to the taxpayer as retirement benefits or otherwise.

Sec. 78. Section 422.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 30. Add, to the extent not included, the amount of the taxpayer's employee contributions picked up by the taxpayer's employer under chapter 97B. The director shall by rule provide a formula to exclude income, to the extent included, from adjusted gross income amounts added under this subsection which are subsequently returned to the taxpayer as retirement benefits or otherwise.

Sec. 79. Section 422.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 31. Add, to the extent not included, the amount of the taxpayer's teacher assessment picked up by the taxpayer's employing school district under chapter 294. The director shall by rule provide a formula to exclude income, to the extent included, from adjusted gross income amounts added under this subsection which are subsequently returned to the taxpayer as retirement benefits or otherwise.

Sec. 80. Section 509A.12, unnumbered paragraph 1, Code 1993, is amended to read as follows:

At the request of an employee the governing body or the county board of supervisors shall by contractual agreement acquire an individual or group life insurance contract, annuity contract, interest in a mutual fund, security or any other deferred payment contract for the purpose of funding a deferred compensation program for an employee, from any company the employee may choose that is authorized to do business in this state ~~and from any life underwriter duly licensed by this state or from any securities dealer~~ or through an Iowa-licensed salesperson ~~registered in this state to contract business in this state~~ that the employee selects on a group or individual basis. The deferred compensation program shall be administered so that the director of revenue and finance or the director's designees remit one sum for the entire program according to a single billing.

Sec. 81. NEW SECTION. 509A.13A CONTINUATION OF GROUP INSURANCE COVERING SPOUSES.

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

a. "Eligible retired state employee" means a former employee of the government of the state of Iowa, including but not limited to any departments, agencies, boards, bureaus, or commissions of the state of Iowa, who is receiving the minimum level of retirement benefits for eligibility under this section and who is participating in a state health or medical group insurance plan which covers the former employee and the former employee's spouse at the time of the death of the former employee.

b. "Minimum level of retirement benefits for eligibility under this section" means any of the following:

(1) The eligible retired state employee has received retirement benefits under the retirement system established in chapter 97A based upon the completion of at least twenty-two years of membership service.

(2) The eligible retired state employee has received retirement benefits under the retirement system established in chapter 97B based upon any of the following:

(a) Meeting the requirements for receiving retirement benefits pursuant to chapter 97B based upon having attained at least sixty-two years of age and upon having completed at least thirty years of membership service.

(b) Meeting the requirements for receiving benefits under section 97B.49, subsection 16, without a reduction for years of service pursuant to section 97B.49, subsection 16, paragraph "c".

(3) The eligible retired state employee has received retirement benefits under the retirement system established in chapter 602, article 9, based upon either of the following:

(a) Meeting the requirements for receiving an annuity which equals fifty percent of the basic annual salary which the judge was receiving at the time that the judge became separated from service, if the judge did not participate in the senior judge program.

(b) Meeting the requirements for receiving an annuity which equals or exceeds fifty percent of the basic annual salary which the judge was receiving at the time that the judge separated from service prior to serving as a senior judge.

c. "State health or medical group insurance plan" means a health or medical group insurance plan for employees of the state.

2. Notwithstanding any provision of law to the contrary, in the event of the death of an eligible retired state employee, the surviving spouse of the eligible retired state employee whose insurance would otherwise terminate because of the death of the eligible retired state employee may elect to continue to be a member of the state health or medical group insurance plan by requesting continuation in writing to the department of personnel within thirty-one days after the death of the eligible retired state employee. The surviving spouse shall pay the total premium for the state health or medical group insurance plan and shall have the same rights to change programs or coverage as state employees.

Sec. 82. Section 602.9104, subsection 4, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. As used in this subsection, unless the context otherwise requires:

(1) "Actuarial valuation" means an actuarial valuation of the judicial retirement system or an annual actuarial update of an actuarial valuation, as required pursuant to section 602.9116.

(2) "Fully funded status" means that the most recent actuarial valuation reflects that, using the aggregate cost method in accordance with generally recognized and accepted actuarial principles and practices set forth by the American academy of actuaries, the funded status of the system is at least one hundred percent.

(3) "Required contribution rate" means that percentage of the basic salary of all judges covered under this article which, in addition to the judge's contribution established in subsection 1, the actuary of the system determines is necessary to maintain fully funded status.

b. Effective with the fiscal year commencing July 1, 1994, and for each subsequent fiscal year until the system attains fully funded status, the state shall contribute annually to the judicial retirement fund an amount equal to at least twenty-three and seven-tenths percent of the basic salary of all judges covered under this article. Commencing with the first fiscal year in which the system attains fully funded status, and for each subsequent fiscal year, the

state shall contribute to the judicial retirement fund the required contribution rate. The state's contribution shall be appropriated directly to the judicial retirement fund.

Sec. 83. NEW SECTION. 602.9104A MONEYS DEPOSITED IN THE JUDICIAL RETIREMENT FUND – LIMITATIONS – INTENT.

1. As used in this section, unless the context otherwise requires, "court revenues" means any court costs, fees, fines, penalties, surcharges, forfeited bail, or similar charges collected by the court, or interest on such amounts.

2. Notwithstanding section 602.8105, 602.8106, or 631.6, or any other provision of law to the contrary, court revenues shall not be deposited in the judicial retirement fund established in section 602.9104. If a provision of law provides for the deposit of court revenues in the judicial retirement fund, those court revenues shall be deposited in the general fund.

3. The judicial retirement fund shall consist of the contributions specified in section 602.9104, as well as the corpus and income of the fund as provided in section 602.9104.

4. It is the intent of the general assembly that the judicial retirement system be funded from contributions based upon the basic salary of the judges covered by this article, rather than from court revenues.

Sec. 84. NEW SECTION. 602.9105 ROLLOVERS OF JUDGES' ACCOUNTS.

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

a. "Direct rollover" means a payment by the system to the eligible retirement plan specified by the judge covered under this article or the judge's surviving spouse.

b. "Eligible retirement plan" means either of the following that accepts an eligible rollover distribution from a judge covered by this article or a judge's surviving spouse:

(1) An individual retirement account in accordance with section 408(a) of the federal Internal Revenue Code.

(2) An individual retirement annuity in accordance with section 408(b) of the federal Internal Revenue Code.

In addition, an "eligible retirement plan" includes an annuity plan in accordance with section 403(a) of the federal Internal Revenue Code, or a qualified trust in accordance with section 401(a) of the federal Internal Revenue Code, that accepts an eligible rollover distribution from a judge covered by this article.

c. "Eligible rollover distribution" means all or any portion of a judge's account, except that an eligible rollover distribution does not include any of the following:

(1) A distribution that is one of a series of substantially equal periodic payments, which occur annually or more frequently, made for the life or life expectancy of the distributee or the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary, or made for a specified period of ten years or more.

(2) A distribution to the extent that the distribution is required pursuant to section 401(a)(9) of the federal Internal Revenue Code.

(3) The portion of any distribution that is not includible in the gross income of the distributee, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

(4) A distribution of less than two hundred dollars of taxable income.

2. Effective January 1, 1993, a judge covered by this article or a judge's surviving spouse may elect, at the time and in the manner prescribed by the state court administrator, to have the system pay all or a portion of an eligible rollover distribution directly to an eligible retirement plan, specified by the judge or the judge's surviving spouse, in a direct rollover. If a judge or a judge's surviving spouse elects a partial direct rollover, the amount of funds elected for the partial direct rollover must equal or exceed five hundred dollars.

Sec. 85. Section 602.9116, Code 1993, is amended to read as follows:

602.9116 ACTUARIAL VALUATION.

1. The court administrator shall cause an actuarial valuation to be made of the assets and liabilities of the judicial retirement fund at least once every four years commencing with the

fiscal year beginning July 1, 1981. For each fiscal year in which an actuarial valuation is not conducted, the court administrator shall cause an annual actuarial update to be prepared for the purpose of determining the adequacy of the contribution rates specified in section 602.9104, subsection 4. The court administrator shall adopt mortality tables and other necessary factors for use in the actuarial calculations required for the valuation upon the recommendation of the actuary. Following the actuarial valuation or annual actuarial update, the court administrator shall determine the condition of the system and shall report its findings and recommendations to the general assembly.

2. The cost of the actuarial valuation or annual actuarial update shall be paid from the judicial retirement fund.

Sec. 86. Section 602.9204, Code 1993, is amended to read as follows:

602.9204 ANNUITY OF SENIOR JUDGE AND RETIRED SENIOR JUDGE.

1. A senior judge or a retired senior judge shall not be paid a salary. A senior judge or retired senior judge shall be paid an annuity under the judicial retirement system in the manner provided in section 602.9109, but computed under this section in lieu of section 602.9107, as follows: The annuity paid to a senior judge or retired senior judge shall be an amount equal to three percent of the ~~current~~ basic senior judge salary, ~~as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge,~~ multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except the annuity of the senior judge or retired senior judge shall not exceed fifty percent of the ~~current~~ basic senior judge salary used in calculating the annuity. However, following the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, the annuity paid to the person shall be an amount equal to three percent of the basic senior judge salary cap, multiplied by the judge's years of service prior to retirement as a judge of one or more of the courts included under this article, for which contributions were made to the system, except that the annuity shall not exceed fifty percent of the basic senior judge salary cap. A senior judge or retired senior judge shall not receive benefits calculated using a basic senior judge salary established after the twelve-month period in which the senior judge or retired senior judge attains seventy-eight years of age. In addition, if a senior judge is under sixty-five years of age at the time the judge becomes a senior judge, the state shall pay the state's share of the senior judge's medical insurance premium until the judge attains age sixty-five.

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

a. "Basic senior judge salary" means the average annual basic salary for the senior judge's or retired senior judge's last three years as a judge of one or more of the courts included in this article, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge, plus seventy-five percent of the escalator.

b. "~~basic~~ Basic senior judge salary cap" means the basic senior judge salary, at the end of the twelve-month period during which the senior judge or retired senior judge attained seventy-eight years of age, of the office in which the person last served as a judge before retirement as a judge or senior judge.

c. "Escalator" means the difference between the current basic salary, as of the time each payment is made up to and including the twelve-month period during which the senior judge or retired senior judge attains seventy-eight years of age, of the office in which the senior judge last served as a judge before retirement as a judge or senior judge, and the average annual basic salary for the senior judge's or retired senior judge's last three years as a judge of one or more of the courts included in this article, as would be used in computing an annuity pursuant to section 602.9107 without service as a senior judge.

Sec. 87. Section 724.6, subsection 2, Code Supplement 1993, is amended to read as follows:

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"~~ "b", subparagraph ~~(4)~~ (2), 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.

Sec. 88. Section 97B.54, Code 1993, is repealed.

Sec. 89. DEVELOPMENT OF PROPOSAL FOR COMBINING TYPES OF SERVICES – IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM – REPORT.

1. The department of personnel, in consultation with the public retirement systems committee established in section 97D.4, shall develop a proposal concerning the possible establishment of a new benefit formula under the Iowa public employee's retirement system created in chapter 97B. The proposed benefit formula shall provide a method by which a member may combine the value of the following different types of membership service:

a. Membership service as a sheriff or deputy sheriff in accordance with section 97B.49, subsection 16, paragraph "b".

b. Membership service in a protection occupation, as provided in section 97B.49, subsection 16, paragraphs "a" and "d".

c. Any other membership service, as defined in section 97B.41.

2. The proposed benefit formula shall not provide credit for years of membership service in excess of thirty years, and shall not allow the use of a percentage multiplier in excess of sixty percent of the member's three-year average covered wage, as defined in section 97B.41.

3. The department of personnel may develop alternate proposed benefit formulas which meet the requirements of this section. On or before September 1, 1995, the department of personnel shall file a report with the legislative service bureau, for distribution to the public retirement systems committee, which contains a proposed benefit formula, and may include alternate proposed benefit formulas, as provided in this section. The report shall also contain actuarial information concerning the costs of the proposal or proposals.

Sec. 90. SENIOR JUDGES – IMPLEMENTATION. Notwithstanding the amendments to section 602.9204 contained in this Act, all judges whose names are entered on the roster of senior judges pursuant to section 602.9203, subsection 3, as of June 30, 1994, and all persons who are retired senior judges as of June 30, 1994, shall continue to receive an annuity calculated pursuant to section 602.9204, 1993 Code of Iowa, subject to the applicability provisions of 1992 Iowa Acts, chapter 1201, section 76, as amended by 1992 Iowa Acts, Second Extraordinary Session, chapter 1001, section 116, and shall not be subject to the amendments to section 602.9204 contained in this Act. This Act shall not be construed in a manner which reduces benefits to persons who participated as senior judges prior to July 1, 1994.

Sec. 91. SENIOR JUDGE COMPENSATION TASK FORCE.

1. The legislative council is requested to establish a senior judge compensation task force to review the services provided and compensation paid to senior judges pursuant to chapter 602, article 9. In addition to legislative members, the legislative council is requested to appoint members who are active members of the judicial retirement system and who are not serving as senior judges, attorneys licensed to practice law in Iowa, and public members who are knowledgeable concerning employee compensation, benefits, and pension plans.

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 for members who are not judicial officers shall be paid from funds appropriated pursuant to section 2.12.

2. The task force shall review the services provided and compensation paid to senior judges, including the current funding mechanism through the judicial retirement fund, as well as alternative funding mechanisms. The task force shall submit a report to the general assembly, the governor, and the supreme court on or before February 1, 1995, containing its findings and recommendations.

Sec. 92. IMPLEMENTATION OF TRANSFER OF CERTAIN ARSON INVESTIGATORS TO CHAPTER 97A.

1. In order to implement the provisions of this Act which amend section 97A.1, subsection 13; section 97B.49, subsection 16, paragraph "d", subparagraph (6), by striking the subparagraph; and section 97B.49, subsection 16, paragraph "j", the department of personnel and the department of public safety shall cooperate with each other to effectuate the provisions of those sections and this section of this Act.

2. Effective July 1, 1994, employees who were members of the protection occupation classification of the Iowa public employees' retirement system pursuant to section 97B.49, subsection 16, paragraph "d", subparagraph (6), Code Supplement 1993, shall be transferred to membership in the Iowa department of public safety peace officer's retirement, accident, and disability system established pursuant to chapter 97A. The department of personnel shall transfer the accumulated contributions of the arson investigators to the treasurer of state for deposit in the pension accumulation fund established in section 97A.8. However, employer contributions which were made with respect to the arson investigators while the arson investigators were included as members of the protection occupation classification pursuant to section 97B.49, subsection 16, paragraph "d", subparagraph (6), Code Supplement 1993, shall remain in the Iowa public employees' retirement fund established in section 97B.7, and any costs pertaining to the payment of employer contributions to the system established in chapter 97A with respect to the period of time during which the arson investigators were members of the protection occupation classification pursuant to section 97B.49, subsection 16, paragraph "d", subparagraph (6), Code Supplement 1993, or any other costs related to the transfer of the arson investigators provided for in this Act, shall be borne by the system established in chapter 97A, notwithstanding any other provision of law to the contrary.

3. Notwithstanding any other provision of law to the contrary, the arson investigators transferred from the protection occupation classification to the system established in chapter 97A shall receive credit for years of service under chapter 97A for those years of service during which the members were members of the protection occupation classification pursuant to section 97B.49, subsection 16, paragraph "d", subparagraph (6), Code Supplement 1993. In addition, notwithstanding the limitation on covered wages in section 97B.41, subsection 20, if applicable, compensation which was paid to an arson investigator while the arson investigator was included in the protection occupation classification pursuant to section 97B.49, subsection 16, paragraph "d", subparagraph (6), 1993 Code Supplement, shall be included in determining the average final compensation of the arson investigators. The arson investigators transferred from the protection occupation classification to the system established in chapter 97A, and the employer of those arson investigators, the department of public safety, shall not be required to pay the difference in the employee and employer contributions in effect for the period of time in which the arson investigators were included in the protection occupation classification pursuant to section 97B.49, subsection 16, paragraph "d", subparagraph (6), Code Supplement 1993, as compared to the employee and employer contributions then in effect for members of the system established in chapter 97A.

4. It is the intent of the general assembly that in administering the implementation provisions of this section, the board of trustees of the system established in chapter 97A and the department of personnel shall interpret this Act in a manner which provides that the arson investigators shall not lose benefits which would have otherwise accrued had the arson investigators been members of the system established in chapter 97A during the period of time in which they were actually members of the protection occupation classification pursuant to section 97B.49, subsection 16, paragraph "d", subparagraph (6), Code Supplement 1993.

Sec. 93. REPORT CONCERNING POSSIBLE PORTABILITY BETWEEN SYSTEMS ESTABLISHED IN CHAPTERS 97A AND 411. The board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system created in section 97A.5, and the board of trustees for the statewide fire and police retirement system created in section 411.36, shall each file a report with the legislative service bureau on or before September 1, 1995, for distribution to the members of the public retirement systems committee established in section 97D.4, pertaining to possible portability between the two systems established in chapters 97A and 411. The reports shall identify issues pertaining to allowing members to transfer between the two systems, including but not limited to, issues pertaining to both employee and employer contributions, determinations concerning years of service and average final compensation, costs associated with portability, any concerns pertaining to the requirements of the federal Internal Revenue Code, as defined in section 422.3, any recommendation by the boards pertaining to portability issues, and other related matters.

Sec. 94. STUDY CONCERNING SURVIVING SPOUSE BENEFITS UNDER CHAPTERS 97A AND 411 — REPORT. The public retirement systems committee established in section 97D.4 shall study the feasibility of increasing the benefits paid to surviving spouses under the Iowa department of public safety peace officers' retirement, accident, and disability system established in chapter 97A and the statewide fire and police retirement system established in chapter 411. The public retirement systems committee shall submit a report to the general assembly on or before January 31, 1996, containing its findings and recommendations.

Sec. 95. STUDY BY DEPARTMENT OF CORRECTIONS CONCERNING OCCUPATIONAL INJURIES AND DEATHS. The department of corrections shall conduct a study and compile information concerning the number of occupational injuries and deaths to persons employed by the department within the correctional institutions specified in section 904.102 who are not members of the protection occupation classification of the Iowa public employees' retirement system, as well as to persons employed by the judicial district departments of correctional services within community-based correctional facilities and persons employed as probation officers I and II, and parole officers I and II. The study shall specify the information according to job classification, and shall include information concerning the numbers of persons employed within those job classifications during the relevant time period. The study shall cover a period of at least ten years. The department of corrections shall submit a report to the legislative service bureau, for distribution to the public retirement systems committee established in section 97D.4, on or before September 1, 1995, concerning the findings from the study.

Sec. 96. CERTAIN CHANGES PERTAINING TO CHAPTERS 97A AND 411 — EFFECTIVE AND RETROACTIVE APPLICABILITY DATES — IMPLEMENTATION.

1. The sections of this Act that amend section 97A.6, subsection 2, paragraph "d", subparagraph (2); section 97A.6, subsection 2, paragraph "d", by enacting a new subparagraph (3); section 97A.8, subsection 1, paragraph "h"; section 411.6, subsection 2, paragraph "d", subparagraph (2); section 411.6, subsection 2, paragraph "d", by enacting a new subparagraph (3); and section 411.8, subsection 1, paragraph "h", being deemed of immediate importance, take effect upon enactment and apply retroactively to October 16, 1992.

2. In order to implement the sections of this Act referenced in subsection 1 and to apply those sections retroactively to October 16, 1992, the board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system created in section 97A.5, and the board of trustees for the statewide fire and police retirement system created in section 411.36, shall develop and implement plans to reimburse members for contributions paid to the systems which are contrary to the provisions of this Act, and shall develop and implement plans to adjust both past and future benefits paid to members which are inconsistent with this Act.

3. The provisions of this Act that amend section 97A.3, by enacting a new subsection 3, renumbering section 97A.3, subsection 3, Code 1993, as subsection 4, and adding a reference to the new subsection 3 of section 97A.3 in the first sentence of subsection 1 of that section; and amend section 97A.6, subsection 1, by enacting a new paragraph "c"; section 411.3; and section 411.6, subsection 1, by enacting a new paragraph "c", being deemed of immediate importance, take effect upon enactment, and apply retroactively to July 1, 1993.

4. In order to implement the provisions of this Act referenced in subsection 3 and to apply those provisions retroactively to July 1, 1993, the board of trustees of the Iowa department of public safety peace officers' retirement, accident, and disability system created in section 97A.5, and the board of trustees for the statewide fire and police retirement system created in section 411.36, shall examine the records of the respective systems to determine if persons are being included in active membership of the systems contrary to the provisions of this Act. If the boards determine that persons have been included in active membership in the systems in a manner inconsistent with the provisions referenced in subsection 3 of this section, the respective boards shall provide for the refund of the employer contributions to the respective employers and employee contributions to the respective employees and the retroactive payment of service retirement allowances in order to fully effectuate the purposes of this Act retroactive to July 1, 1993.

5. The sections of this Act which enact new sections 97A.6B and 411.6B, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1993.

Sec. 97. OTHER EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.

1. The sections of this Act which amend section 97B.41, subsection 12; section 97B.53, subsections 3 and 7, and subsection 6, unnumbered paragraph 1; section 97B.66, unnumbered paragraphs 1 and 2; section 97B.70, by enacting a new subsection 4; section 97B.72, unnumbered paragraphs 1 and 2; section 97B.72A, subsection 1, unnumbered paragraph 1; section 97B.73A, unnumbered paragraph 1; and section 97B.74, unnumbered paragraphs 1 and 2, take effect July 1, 1995.

2. The section of this Act which amends section 97B.41, subsection 18, takes effect January 1, 1995.

3. The sections of this Act which enact new sections 97B.53B and 602.9105, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1993.

4. The section of this Act which amends section 422.7 by enacting a new subsection 29 takes effect January 1, 1995, and applies to tax years beginning on or after January 1, 1995.

5. The section of this Act which amends section 422.7 by enacting a new subsection 30 takes effect January 1, 1995, and applies to tax years beginning on or after January 1, 1995.

6. The section of this Act which enacts a new section 509A.13A, being deemed of immediate importance, takes effect upon enactment.

Approved May 16, 1994

CHAPTER 1184

IOWA COMMUNICATIONS NETWORK

S.F. 2089

AN ACT relating to the Iowa communications network by establishing a board, an executive director of the board, and an educational telecommunications advisory council and providing an effective date.

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

Section 1. Section 2.32, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If an appointment subject to senate confirmation is required by statute to be made by an appointing authority other than the governor, the duties assigned under this section to the governor shall be performed by the appointing authority.

Sec. 2. Section 18.3, subsection 5, Code 1993, is amended by striking the subsection.

Sec. 3. Section 18.133, subsections 1, 2, 3, and 4, Code Supplement 1993, are amended to read as follows:

1. "Commission" means the Iowa telecommunications and technology commission established in section 18.133A.

~~1~~ 1A. "Director" means the executive director ~~of the department of general services or the director's designee~~ appointed pursuant to section 18.133B.

2. "Private agency" means an accredited nonpublic ~~schools and~~ school, a nonprofit ~~institutions~~ institution of higher education eligible for tuition grants, or a hospital licensed pursuant to chapter 135B or a physician clinic to the extent provided in section 18.136, subsection 13B.

3. "Public agency" means a state agency, an institution under the control of the board of regents, the judicial department as provided in section 18.136, subsection 13C, a school corporation, a city library, a regional library as provided in chapter 256, ~~and~~ a county library as provided in chapter 336, or a judicial district department of correctional services established in section 905.2, to the extent provided in section 18.136, subsection 13A, an agency of the federal government, or a United States post office which receives a federal grant for pilot and demonstration projects.

4. "State communications" refers to the transmission of voice, data, video, the written word or other visual signals by electronic means ~~to serve the needs of state agencies~~ but does not include ~~communications activities of the state board of regents,~~ radio and television facilities and other educational telecommunications systems and services including narrowcast and broadcast systems under the ~~division of~~ public broadcasting division of the department of education, department of transportation distributed data processing and mobile radio network, or law enforcement communications systems.

Sec. 4. Section 18.133, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 1B. "Network" means the Iowa or state communications network.

Sec. 5. NEW SECTION. 18.133A IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION — MEMBERS — DUTIES.

1. COMMISSION ESTABLISHED. A telecommunications and technology commission is established with the sole authority to supervise the management, development, and operation of the network and ensure that all components of the network are technically compatible. The commission shall ensure that the network operates in an efficient and responsible manner consistent with the provisions of this chapter for the purpose of providing the best economic service attainable to the network users consistent with the state's financial capacity. The commission shall ensure that educational users and the use, design, and implementation for educational applications be given the highest priority concerning use of the network. The commission shall provide for the centralized, coordinated use and control of the network.

2. MEMBERS. The commission is composed of three members appointed by the governor and subject to confirmation by the senate. Members of the commission shall not serve in any manner or be employed by an authorized user of the network or by an entity seeking to do or doing business with the network. The governor shall appoint a member as the chairperson of the commission from the three members appointed by the governor, subject to confirmation by the senate. Members of the commission shall serve six-year staggered terms as designated by the governor and appointments to the commission are subject to the requirements of sections 69.16, 69.16A, and 69.19. Vacancies shall be filled by the governor for the duration of the unexpired term. The salary of the members of the commission shall be twenty thousand dollars per year, except that the salary of the chairperson shall be twenty-five thousand dollars per year. Members of the commission shall also be reimbursed for all actual and necessary expenses incurred in the performance of duties as members. Meetings of the commission shall be held at the call of the chairperson of the commission. In addition to the members appointed by the governor, the auditor of state or the auditor's designee shall serve as a nonvoting, ex officio member of the commission.

The benefits and salary paid to the members of the commission shall be adjusted annually equal to the average of the annual pay adjustments, expense reimbursements, and related benefits provided under collective bargaining agreements negotiated pursuant to chapter 20.

3. DUTIES. The commission shall do all of the following:

a. Enter into agreements pursuant to chapter 28E as necessary and appropriate for the purposes of the commission. However, the commission shall not enter into an agreement with an unauthorized user or any other person pursuant to chapter 28E for the purpose of providing such user or person access to the network.

b. Adopt rules pursuant to chapter 17A as deemed appropriate and necessary, and directly related to the implementation and administration of the duties of the commission. The commission, in consultation with the department of general services, shall also adopt and provide for standard communications procedures and policies relating to the use of the network which recognize, at a minimum, the need for reliable communications services.

c. Establish an appeal process for review by the commission of a scheduling conflict decision, including a scheduling conflict involving an educational user, or the establishment of a fee associated with the network upon the request of a person affected by such decision or fee. A determination made by the commission pursuant to this paragraph shall be final.

d. Review and approve for adoption, rules as proposed and submitted by an authorized user group necessary for the authorized user group's access and use of the network. The commission may refuse to approve and adopt a proposed rule, and upon such refusal, shall return the proposed rule to the respective authorized user group proposing the rule with a statement indicating the commission's reason for refusing to approve and adopt the rule.

e. (1) Develop and issue for response all requests for proposals for any construction, installation, repair, maintenance, or equipment and parts necessary for the network. In preparing the request for proposals, the commission shall do all of the following:

(a) Review existing requests for proposals related to the network.

(b) Consider and evaluate all competing technologies which could be used in any construction, installation, repair, or maintenance project.

(c) Allow flexibility for proposals to be submitted in response to a request for proposals issued by the commission such that any qualified provider may submit a bid on a site-by-site basis, or on a merged area or defined geographic area basis, or both, and by permitting proposals to be submitted for use of competing or alternative technologies in each defined area.

(d) Ensure that rural communities have access to comparable services to the services provided in urban areas resulting from any plans to construct, install, repair, or maintain any part of the network.

(2) In determining which proposal to recommend to the general assembly to accept, consider what is in the long-term best interests of the citizens of the state and the network, and utilize, if possible, the provision of services with existing service providers consistent with those

best interests. In determining what is in the long-term best interests of the citizens of the state and the network, the commission, at a minimum, shall consider the cost to taxpayers of the state.

(3) Deliver a written report and all proposals submitted in response to the request for proposals for Part III to the general assembly no later than January 1, 1995. The commission shall not enter into any agreement related to such proposals without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor.

f. Annually prepare a written five-year financial plan for the network which shall be provided to the general assembly and the governor no later than January 15 of each year. The plan shall include estimates for income and expenses for the network for the five-year period and the actual income and expenses for the preceding fiscal year. The plan shall include the amount of general fund appropriations to be requested for the payment of operating expenses and debt service. The plan shall also include any recommendations of the commission related to changes in the system and other items as deemed appropriate by the commission. The recommendations of the commission contained in the plan shall include a detailed plan for the connection of all public schools to the network, including a discussion and evaluation of all potential financing options, an estimate of all costs incurred in providing such connections, and a schedule for completing such connections, including the anticipated final completion date for such connections.

g. Review existing maintenance contracts and past contracts to determine vendor capability to perform the obligations under such contracts. The commission shall report to the general assembly prior to January 1 of each year as to the performance of all vendors under each contract and shall make recommendations concerning continued funding for the contracts.

h. Pursue available opportunities to cooperate and coordinate with the federal government for the use and potential expansion of the network and for the financing of any such expansion.

i. Evaluate existing and projected rates for use of the system and ensure that rates are sufficient to pay for the operation of the system except to the extent such use is subsidized by general fund appropriations as authorized by the general assembly. The commission shall establish all hourly rates to be charged to all authorized users for the use of the network. A fee established by the commission to be charged to a hospital licensed pursuant to chapter 135B, a physician clinic, or the federal government shall be at an appropriate rate so that, at a minimum, there is no state subsidy related to the costs of the connection or use of the network related to such user.

j. Make recommendations to the general assembly, as deemed appropriate by the commission, concerning the operation of the network.

Sec. 6. NEW SECTION. 18.133B EXECUTIVE DIRECTOR APPOINTED.

The commission shall appoint an executive director of the commission, subject to confirmation by the senate. Such individual shall not serve as a member of the commission. The executive director shall serve at the pleasure of the commission. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation. The governor shall establish the salary of the executive director within range nine as established by the general assembly. The salary and support of the executive director shall be paid from funds deposited in the Iowa communications network fund.

Sec. 7. NEW SECTION. 18.133C EDUCATION TELECOMMUNICATIONS COUNCIL ESTABLISHED — REGIONAL COUNCILS ESTABLISHED.

1. An education telecommunications council is established. The council consists of eighteen members and shall include the following: two persons appointed by the state board of regents; two persons appointed by the Iowa association of community college trustees; two persons appointed by the area education agency boards; two persons appointed by the Iowa association of school boards; two persons appointed by the school administrators of Iowa; two persons appointed by the Iowa association of independent colleges and universities; two persons appointed by the Iowa state education association; three persons appointed by the director of the department of education including one person representing libraries and one person

representing the Iowa association of nonpublic school administrators; and one person appointed by the administrator of the public broadcasting division of the department of education. The council shall establish scheduling and site usage policies for educational users of the network, coordinate the activities of the regional telecommunications councils, and develop proposed rules and changes to rules for recommendation to the commission. The council shall also recommend long-range plans for enhancements needed for educational applications. Administrative support and staffing for the council shall be provided by the department of education.

2. A regional telecommunications council is established in each of the merged areas established pursuant to chapter 260C consisting of nine members, including one member each to be appointed by each of the appointing authorities under subsection 1. Additional ex officio, nonvoting members may also be appointed to the regional telecommunications councils. The regional telecommunications councils shall advise the education telecommunications council on the assessment of local educational needs, and the coordination of program activities including scheduling. The community college located in the merged area of a regional telecommunications council shall staff and facilitate the activities of the council. The community college and the council may enter into a chapter 28E agreement for such arrangement.

3. The community college in each of the merged areas shall be responsible for switching of Parts II and III of the network and for facilitating the organization and meetings of the regional telecommunications council.

Sec. 8. NEW SECTION. 18.133D ADVISORY GROUPS ESTABLISHED.

1. The commission shall establish an advisory group to examine the use of the network for telemedicine applications. The advisory group shall consist of representatives of hospitals and other health care facilities as determined by the commission.

2. The commission may establish other advisory committees as necessary representing authorized users of the network.

Sec. 9. NEW SECTION. 18.133E TELECOMMUNICATIONS ADVISORY COMMITTEE.

A telecommunications advisory committee is established to advise the commission on telecommunications matters. The commission shall appoint five members to the advisory committee who shall represent specific telecommunications industries or persons with technical expertise related to the network.

Sec. 10. NEW SECTION. 18.133F SCHEDULING FOR AUTHORIZED USERS.

Except as provided in section 18.133C, an authorized user is responsible for all scheduling of the use of the authorized user's facility. A person who disputes a scheduling decision of such user may petition the commission for a review of such decision pursuant to section 18.133A, subsection 3, paragraph "c".

Sec. 11. NEW SECTION. 18.133G CERTIFICATION OF USE – NETWORK USE BY CERTAIN AUTHORIZED USERS.

1. A private or public agency, other than a state agency, local school district or nonpublic school, city library, regional library, county library, judicial department, judicial district department of correctional services, agency of the federal government, a hospital or physician clinic, or a post office authorized to be offered access pursuant to this chapter as of the effective date of this Act, shall certify to the commission no later than July 1, 1994, that the agency is a part of or intends to become a part of the network. Upon receiving such certification from an agency not a part of the network on the effective date of this Act, the commission shall provide for the connection of such agency as soon as practical. An agency which does not certify to the commission that the agency is a part of or intends to become a part of the network as required by this subsection shall be prohibited from using the network.

2. a. A private or public agency which certifies to the commission pursuant to subsection 1 that the agency is a part of or intends to become a part of the network shall use the network for all video, data, and voice requirements of the agency unless the private or public agency petitions the commission for a waiver and one of the following applies:

(1) The cost to the authorized user for services provided on the network are not competitive with the same services provided by another provider.

(2) The authorized user is under contract with another provider for such services, provided the contract was entered into prior to April 1, 1994. The agency shall use the network for video, data, and voice requirements which are not provided pursuant to such contract.

(3) The authorized user has entered into an agreement with the commission to become part of the network prior to June 1, 1994, which does not provide for use of the network for all video, data, and voice requirements of the agency. The commission may enter into an agreement described in this subparagraph upon a determination that the use of the network for all video, data, and voice requirements of the agency would not be in the best interests of the agency.

b. A private or public agency shall petition the commission for a waiver of the requirement to use the network as provided in paragraph "a", if the agency determines that paragraph "a", subparagraph (1) or (2) applies. The commission shall establish by rule a review process for determining, upon application of an authorized user, whether paragraph "a", subparagraph (1) or (2), applies. An authorized user found by the commission to be under contract for such services as provided in paragraph "a", subparagraph (2), shall not enter into another contract upon the expiration of such contract, but shall utilize the network for such services as provided in this section unless paragraph "a", subparagraph (1), applies.

Sec. 12. NEW SECTION. 18.133H REPORT OF SAVINGS BY STATE AGENCIES.

A state agency which is a part of the network shall annually provide a written report to the general assembly certifying the identified savings associated with the state agency's use of the network. The report shall be delivered on or before January 15 for the previous fiscal year of the state agency.

Sec. 13. Section 18.134, subsection 1, Code Supplement 1993, is amended to read as follows:

1. The ~~department of general services~~ commission may purchase, lease-purchase, lease, and improve property, equipment, and services for telecommunications for public and private agencies~~, including the broadcast and narrowcast systems,~~ and may dispose of property and equipment when not necessary for its purposes. However, the ~~department of general services~~ commission shall not enter into a contract for the purchase, lease-purchase, lease, or improvement of property, equipment, or services for telecommunications pursuant to this subsection in an amount greater than five hundred thousand dollars without prior authorization by a constitutional majority of each house of the general assembly, or approval by the legislative council if the general assembly is not in session. The commission shall not issue any bonding or other long-term financing arrangements as defined in section 12.30, subsection 1, paragraph "b". The commission also shall not provide or resell communications services to entities other than public and private agencies. The public or private agency shall not provide communication services of the network to another entity ~~at a cost greater than that charged to the agency pursuant to section 18.136, subsections 11 and 12~~ unless otherwise authorized pursuant to this chapter. The ~~department~~ commission may arrange for joint use of available services and facilities, and may enter into leases and agreements with private and public agencies with respect to ~~a state~~ the Iowa communications ~~system~~ network, and public agencies are authorized to enter into leases and agreements with respect to the ~~system~~ network for their use and operation. Rentals and other amounts due under the agreements or leases entered into pursuant to this section by a state agency are payable from funds annually appropriated by the general assembly or from other funds legally available. Other public agencies may pay the rental costs and other amounts due under an agreement or lease from their annual budgeted funds or other funds legally available or to become available. This section comprises a complete and independent authorization and procedure for a public agency, with the approval of the ~~department~~ commission, to enter into a lease or agreement and related security enhancement arrangements and this section is not a qualification of any other powers which a public agency may possess and the authorizations and powers granted under this section are not subject to the

terms, requirements, or limitations of any other provisions of law. All moneys received by the ~~department~~ commission from agreements and leases entered into pursuant to this section with private and public agencies shall be deposited in the ~~state~~ Iowa communications network fund.

~~It is the intent of the general assembly that rental and other costs due under agreements and leases entered into pursuant to this section by state agencies be replaced by supplemental appropriations to the state agencies.~~

Sec. 14. NEW SECTION. 18.134A DISPOSITION OF NETWORK — APPROVAL OF GENERAL ASSEMBLY AND GOVERNOR.

Notwithstanding any provision to the contrary, the commission or the department of general services shall not sell, lease, or otherwise dispose of the network without prior authorization by a constitutional majority of each house of the general assembly and approval by the governor.

Sec. 15. Section 18.136, subsections 1, 2, 3, 4, 6, 7, 8, 9, 10, 12, and 14, Code Supplement 1993, are amended to read as follows:

1. Moneys in the ~~state~~ Iowa communications network fund are appropriated to the ~~Iowa public broadcasting board~~ Iowa telecommunications and technology commission for purposes of providing financing for the procurement, operation, and maintenance of ~~a state~~ the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of ~~state agencies and~~ the educational telecommunications system consisting of Part I, Part II, and Part III, and other public and private agencies. ~~The state communications network consists of Part I, Part II, and Part III of the system.~~

2. For purposes of this section, unless the context otherwise requires:

a. "Part I ~~of the system~~" means the communications connections between central switching and institutions under the control of the board of regents, nonprofit institutions of higher education eligible for tuition grants, and the regional switching centers for the remainder of the network.

b. "Part II ~~of the system~~" means the communications connections between the regional switching centers and the secondary switching centers.

c. "Part III ~~of the system~~" means the communications connection between the secondary switching centers and the agencies defined in section 18.133, subsections ~~3~~ 2 and ~~4~~ 3, excluding state agencies, institutions under the control of the board of regents, nonprofit institutions of higher education eligible for tuition grants, and the judicial department, judicial district departments of correctional services, hospitals and physician clinics, agencies of the federal government, and post offices.

3. The financing for the procurement costs for the entirety of Part I ~~of the system~~ except for the communications connections between central switching and institutions under the control of the board of regents, and nonprofit institutions of higher education eligible for tuition grants, and for the video, data, and voice capacity for state agencies and 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 from the state.~~ The financing for the procurement and maintenance costs for Part III ~~of the system~~ shall be provided ~~eighty percent from~~ by the state ~~and twenty percent from the local school boards of the areas which receive transmissions from the system~~. A local school board, governing authority of a nonpublic school, or an area education agency 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~~ network. ~~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 amount of state ~~match~~ financing is ~~eighty~~ one hundred percent of a single interactive audio and ~~one-way~~ interactive video connection 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 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.~~ If a school board, governing authority of a nonpublic school, or area education agency board elects to provide one hundred percent of the financing for the leasing costs for Part III, the school district or area education agency may become part of the network as soon as the network can reasonably connect the district or agency. A local school board, governing authority of a nonpublic school, or an area education agency board may also elect not to become part of the ~~system~~ network. ~~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~~, related to a school board, governing authority of a nonpublic school, or area education agency board which provides one hundred percent of the financing for the leasing costs for Part III, may proceed ~~before Part I and Part II of the system have been completed~~ as determined by the commission and consistent with the purpose of this chapter.

4. The ~~department of general services~~ commission shall develop the requests for proposals that are needed for ~~a state~~ the Iowa communications network with sufficient capacity to serve the video, data, and voice requirements of state agencies and ~~the~~ for educational telecommunications applications ~~required by the Iowa public broadcasting board~~. The ~~department~~ commission shall develop a request for proposals for each of the systems that will make up the network. The ~~department~~ commission may develop a request for proposals for each definitive component of ~~Part I, Part II, and Part III of the system~~ the network or the ~~department~~ commission may provide in the request for proposals for each such system that separate contracts may be entered into for each definitive component covered by the request for proposals. The requests for proposals may be for the purchase, lease-purchase, or lease of the component parts of the ~~system~~ network consistent with the provisions of this chapter, may require maintenance costs to be identified, and the resulting contract may provide for maintenance for parts of the ~~system~~ network. The master contract may provide for electronic classrooms, satellite equipment, receiving equipment, studio and production equipment, and other associated equipment as required.

~~6. Prior to the awarding of a contract under this section, the department shall notify the legislative council and the department of management of the department's intent to award a contract and of the cost to the state. The department of management and the legislative council shall determine if the anticipated financial resources of the state are adequate to fund the expenditure during the fiscal years covered by the contract, and if so, the department of management shall certify the determination to the department. Upon certification, the department may enter into the contract.~~

7. The ~~department of general services~~ commission shall be responsible for the network ~~system~~ design and shall be responsible for the implementation of each component of the network as it is incorporated into the network ~~system~~. The final design selected shall optimize the routing for all users in order to assure maximum utilization by all agencies of the state. Efficiencies achieved in the implementation of the network shall be used to fund further implementation and enhancement of the network, and shall be considered part of the operational cost of the network. The ~~department~~ commission shall be responsible for all management, operations, control switching, diagnostics, and maintenance functions of ~~Part I and Part II of the system~~

network operations~~, except as designated in subsection 8~~ as provided in this chapter. The performance of these duties is intended to provide optimal utilization of the facilities, and the assurance that future growth requirements will be provided for, and that sufficient network capacity will be available to meet the needs of all users. ~~The telecommunications information management council, created by executive order of the governor, shall provide general oversight for these functions.~~

8. ~~The Iowa public broadcasting board retains sole authority over the educational telecommunications applications of Part I of the system, and its authority shall include management and operational control, programming, budget, personnel, scheduling, and program switching of educational material carried by Part I of the system. The Iowa public broadcasting board, through its narrowcast system advisory committee, retains coordination authority over the educational telecommunications applications of Part II and Part III of the system. Community colleges are responsible for scheduling and switching of educational materials carried by Part II and Part III of the system within their respective areas. Such responsibility may be accomplished by a chapter 28E agreement with the department of general services.~~

The ~~narrowcast system advisory committee~~ education telecommunications council shall review all requests for grants for educational telecommunications applications, if they are a part of the ~~state~~ Iowa communications network, to ensure that the educational telecommunications application is consistent with the telecommunications plan. ~~If the narrowcast system advisory committee finds that a grant request is inconsistent with the telecommunications plan, the grant request shall not be allowed.~~ All other grant requests shall be reviewed as determined by the commission. If the education telecommunications council finds that a grant request is inconsistent with the telecommunications plan, the grant request shall not be allowed.

9. The procurement and maintenance of electronic equipment including, but not limited to, master receiver antenna systems, studio and production equipment, and broadcast system components shall be provided for under ~~department of general services'~~ the commission's contracts. The Iowa public broadcasting board and other educational entities within the state have the option to use their existing or replacement resources and agreements in the operation and maintenance of these systems.

10. In addition to the other evaluation criteria specified in the request for proposals issued pursuant to this section, the ~~department of general services~~ commission, in evaluating proposals, shall base up to two percent of the total possible points on the public benefit that can be derived from a given proposal due to the increased private telecommunications capacity available to Iowa citizens located in rural Iowa. For purposes of this subsection, an area of the state is considered rural if it is not part of a federally designated standard metropolitan statistical area.

12. ~~The Iowa public broadcasting board, in consultation with its narrowcast system advisory committee, shall determine the fee to be charged per course or credit hour by the originating institution, and the fees shall be substantially the same for comparable courses.~~ The commission, on its own or as recommended by an advisory committee of the commission and approved by the commission, shall permit a fee to be charged by a receiving site to the originating site. The fee charged shall be for the purpose of recovering the operating costs of a receiving site. The fee charged shall be reduced by an amount received by the receiving site pursuant to a state appropriation for such costs, or federal assistance received for such costs. Fees established under this subsection shall be paid by the originating site directly to the receiving site. For purposes of this section, "operating costs" include the costs associated with the management or coordination, operations, utilities, classroom, equipment, maintenance, and other costs directly related to providing the receiving site.

14. Notwithstanding chapter 476, the provisions of chapter 476 shall not apply to a public utility in furnishing a telecommunications service or facility to the ~~department of general services~~ commission for the ~~state~~ Iowa communications network or to any authorized user of the Iowa communications network for such authorized user's connection to the network.

Sec. 16. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. The state shall lease all fiber optic cable facilities or facilities with DS-3 capacity for Part III connections for which state funding is provided. The state shall lease all fiber optic cable facilities or facilities with DS-3 or DS-1 capacity for the judicial department, judicial district department of correctional services, and state agency connections for which state funding is provided. Such facilities shall be leased from qualified providers. The state shall not own such facilities, except for those facilities owned by the state as of January 1, 1994.

The lease provisions of this subsection do not apply to a school district which elects to provide one hundred percent of the financing for the district's connection.

Sec. 17. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 12A. The auditor of state shall, no less than annually, examine the financial condition and transactions of the commission as provided in chapter 11. A copy of the auditor's report concerning such examination shall be provided to the general assembly.

Sec. 18. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. Access to the network shall be offered to the judicial district departments of correctional services established in section 905.2, provided that such departments contribute an amount consistent with their share of use for the part of the system in which the departments participate, as determined by the commission.

Sec. 19. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13B. Access shall be offered to hospitals licensed pursuant to chapter 135B and physician clinics for diagnostic, clinical, consultative, data, and educational services for the purpose of developing a comprehensive, statewide telemedicine network, to an agency of the federal government, and to a post office defined as a public agency pursuant to section 18.133, subsection 3. A hospital, physician clinic, an agency of the federal government, or a post office defined as a public agency pursuant to section 18.133, subsection 3, shall be responsible for all costs associated with becoming a part of the network.

Sec. 20. Section 18.136, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 13C. Access shall be offered to the judicial department provided that the department contributes an amount consistent with the department's share of use for the part of the network in which the department participates, as determined by the commission.

Sec. 21. Section 18.137, Code 1993, is amended to read as follows:

18.137 ~~STATE~~ IOWA COMMUNICATIONS NETWORK FUND.

There is created in the office of the treasurer of state a ~~temporary~~ fund to be known as the ~~state~~ Iowa communications network fund under the control of the Iowa telecommunications and technology commission. ~~There is appropriated to the state communications network fund for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the sum of two million one hundred forty-two thousand six hundred twenty-one dollars from the general fund of the state.~~ There is appropriated from the general fund of the state to the ~~state~~ Iowa communications network fund for each fiscal year of the fiscal period beginning July 1, 1991, and ending June 30, 1996, the sum of five million dollars. ~~Notwithstanding section 8.33, unobligated and unencumbered moneys from the appropriation for a fiscal year remaining on June 30 of that fiscal year shall not revert to the general fund of the state but shall remain available for expenditure during the next following fiscal year.~~ There shall also be deposited into the ~~state~~ Iowa communications network fund proceeds from bonds issued for purposes of projects authorized pursuant to section 18.136, ~~matching funds received from the community colleges and~~

~~the local school boards,~~ funds received from leases pursuant to section 18.134, and other moneys by law credited to or designated by a person for deposit into the fund. ~~Notwithstanding the requirements of section 18.136, subsection 1, for the fiscal year beginning July 1, 1990, and ending June 30, 1991, thirty-one thousand dollars of moneys in the state communications network fund may be expended for the state's share of the cost for the design of a disaster recovery facility to be built in conjunction with the Iowa communications network facility and emergency operation center. The department of general services may increase its fees for data processing in order to collect an additional amount not exceeding two hundred thousand dollars during the fiscal year beginning July 1, 1991, to pay for the state's share of the cost of construction of the disaster recovery facility.~~

~~The Iowa public broadcasting board shall use the net increase in the federal match awarded to the Iowa public broadcasting board as a result of this appropriation in order to meet the needs of the educational telecommunications system. These funds shall be deposited in a separate account within the state communications network fund, and shall be administered by the Iowa public broadcasting board for purposes of the fund.~~

Sec. 22. Section 256.82, subsection 3, Code Supplement 1993, is amended by striking the subsection and inserting in lieu thereof the following:

3. The board shall appoint an advisory committee on journalistic and editorial integrity which has no more than a simple majority of members of the same gender. The division shall be governed by the national principles of editorial integrity developed by the editorial integrity project.

Duties of the advisory committee, 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. 23. ORGANIZATION OF COMMISSION. Notwithstanding any other provision to the contrary, the Iowa telecommunications and technology commission shall develop a written proposal to be submitted to the governor for the governor's approval relating to the structure and organization of the commission. The commission shall identify existing positions which exist in state departments or agencies directly related to the duties and mission of the commission and shall request in the proposal that those positions be transferred to, and be under the control of, the commission. The request shall be submitted to the governor no later than January 1, 1995, with a copy to be submitted to the house of representatives and the senate at the same time.

Upon approval by the governor, the department of management shall provide for the transfer of funds appropriated for those positions to the commission from the department or agency in which the position was located prior to the transfer. If persons are transferred from employment with a department or agency to employment with the commission, the persons shall not be required to forfeit any accrued seniority or other benefits.

Sec. 24. COMPATIBLE SCHOOL DISTRICT SYSTEMS. Notwithstanding any contrary provisions of this Act, a K-12 school district, on or before July 1, 1994, may certify to the commission in writing that the K-12 school district has a full motion interactive video system which is fully compatible with the network. Upon receipt of such certification and a determination by the commission that the district's system is fully compatible with the network, access to the network shall be permitted as soon as practical. A K-12 school district which provides the certification to the commission as provided in this section may petition the commission for reimbursement of the costs associated with providing the connection incurred by the district.

Sec. 25. COMMISSION EVALUATION. The commission shall evaluate and complete a cost-benefit analysis concerning the use of video conferencing by the area education agencies. The commission shall provide a written report and any recommendations concerning this evaluation to the general assembly by no later than March 15, 1995.

Sec. 26. IOWA UTILITIES BOARD STUDY. The Iowa utilities board shall conduct a study to determine the overall impact of the Iowa communications network on the private telecommunications industry in Iowa. The board shall provide a written report to the general assembly by no later than January 15, 1996, detailing the results of the study.

Sec. 27. TEMPORARY AUTHORITY OF CHIEF EXECUTIVE OFFICER. All duties and responsibilities of the Iowa telecommunications and technology commission shall be performed by the ICN chief executive officer appointed by the governor pursuant to executive order number 46 signed on January 5, 1993, until such time as the initial appointments to the commission have been made and the commission has organized itself.

Sec. 28. INITIAL IOWA TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION APPOINTMENTS. The initial members of the Iowa telecommunications and technology commission shall be appointed on or before July 1, 1994, to the following terms:

1. One member shall be appointed for a term of six years.
2. One member shall be appointed for a term of four years.
3. One member shall be appointed for a term of two years.

Sec. 29. CODE EDITOR TRANSFERS. The Code editor shall transfer sections 18.132 through 18.137 to be a new chapter 8D. The Code editor shall correct all internal citations and references consistent with the transfer of Code sections as provided in this section.

Sec. 30. CONTINUATION OF APPLICABILITY OF EXISTING RULES. Rules applicable to the Iowa communications network in effect on the effective date of this Act shall remain effective until the Iowa telecommunications and technology commission modifies or repeals such rules.

Sec. 31. REPEAL. Section 18.135, Code 1993, is repealed.

Sec. 32. EFFECTIVE DATE. This Act, being deemed of immediate importance, is effective upon enactment.

Approved May 18, 1994

CHAPTER 1185

PRIZE PROMOTIONS

S.F. 2272

AN ACT relating to prize promotions by creating criminal and civil penalties and creating a private cause of action.

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

Section 1. Section 714.8, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 15. Obtains or attempts to obtain the transfer of possession, control, or ownership, of the property of another by deception through communications conducted primarily by telephone and involving direct or implied claims that the other person contacted has won or is about to win a prize, or involving direct or implied claims that the other person contacted may be able to recover any losses suffered by such other person in connection with a prize promotion.

Sec. 2. NEW SECTION. 714B.1 DEFINITIONS.

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

1. "Advertisement" means as defined in section 714.16, subsection 1.

2. "Merchandise" means as defined in section 714.16, subsection 1.

3. "Person" means as defined in section 714.16, subsection 1.

4. "Prize" means a gift, award, cash award, or other merchandise of value that is offered or awarded to a person in a real or purported contest, competition, sweepstakes, puzzle, drawing, scheme, plan, or other selection process.

5. "Retail value" of a prize means the following:

a. A price at which the sponsor of the prize can substantiate that a substantial number of the items of merchandise have been sold to the public in the year preceding the date of the written prize notice in the regular course of business other than through a prize promotion.

b. No more than one and one-half times the amount the sponsor paid for the prize in a bona fide purchase from an unaffiliated seller, if the sponsor is unable to substantiate a price pursuant to paragraph "a".

6. "Sponsor" means a person who awards another person a prize or who allows the person to receive, use, compete for, or obtain information about a prize.

Sec. 3. NEW SECTION. 714B.2 WRITTEN PRIZE NOTICE — CONTENT — FORM.

1. a. A sponsor of a prize shall not require a person to purchase merchandise or pay or donate money as a condition of awarding a prize or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, unless the person has first received a written prize notice which satisfies the requirements of subsections 2 and 3. A sponsor shall not create the reasonable impression that such a purchase, payment, or donation is required, unless the person has first received a written prize notice which satisfies the requirements of subsections 2 and 3.

b. For purposes of this chapter, a sponsor is deemed to have created the reasonable impression that a payment, purchase, or donation is required as a condition of awarding the person a prize, or as a condition of allowing the person to receive, use, compete for, or obtain information about a prize, if the sponsor does any of the following:

(1) Fails to clearly and conspicuously disclose that a purchase, payment, or donation is not required in immediate proximity to, and in the same type and boldness as, each written reference to a purchase, payment, or donation, or in immediate proximity to, and in the same audio volume as, each verbal reference to a purchase, payment, or donation.

(2) Uses a verbal or written solicitation, or other advertisement which contains any express or implied representations that a participant's likelihood of receiving a prize or other favorable treatment is enhanced by making a purchase, payment, or donation.

(3) Uses a verbal or written solicitation, course of solicitation, or other advertisement which when considered in its totality creates an overall impression that a participant's likelihood of receiving a prize or other favorable treatment is enhanced by making a purchase, payment, or donation.

c. A written prize notice satisfying the requirements of subsections 2 and 3 must precede every verbal advertisement by a sponsor which requires a person to purchase merchandise or pay or donate money, or gives the reasonable impression that such a purchase, payment, or donation is required, as a condition of awarding a prize, or as a condition of allowing a person to receive, use, compete for, or obtain information about a prize.

d. Each written advertisement by a sponsor which requires a person to purchase merchandise or pay or donate money, or gives the reasonable impression that such a purchase, payment, or donation is required as a condition of awarding a prize or as a condition of allowing a person to receive, use, compete for, or obtain information about a prize, must satisfy the requirements of subsections 2 and 3.

2. A written prize notice must contain each of the following:

a. The true name or names of the sponsor and the street address of the sponsor's actual principal place of business.

b. The retail value of each prize the person receiving the notice has been selected to receive or may be eligible to receive.

c. A statement of the odds the person has of receiving each prize identified in the notice.

d. Any requirement that the person pay shipping or handling fees, or any other charges to obtain or use a prize, including the nature and amount of the charge.

e. A statement that a restriction applies and a description of the restriction, if receipt of the prize is subject to a restriction.

f. Any limitations on eligibility to receive a prize.

g. If a sponsor represents that a person is a winner or finalist, has been specially selected, is in first place, or is otherwise among a limited group of persons with an enhanced likelihood of receiving a prize; or that a person is entering a contest, sweepstakes, drawing, or other competitive enterprise from which a single winner or select group of winners will receive a prize, and if the notice is not prohibited under section 714B.3, subsection 1, paragraph "c", a statement of the maximum number of persons in the group or purported group with this enhanced likelihood of receiving a prize.

h. Any requirement or invitation for the person to view, hear, or attend a sales presentation in order to claim a prize, a good faith estimate of the length of the sales presentation, a description of the merchandise that is the subject of the sales presentation, and the total cost of such merchandise.

3. The information required in the written prize notice pursuant to subsection 2 must be provided as follows:

a. The retail value and the statement of odds required under subsection 2 must be stated in immediate proximity to each identification of a prize on the written notice, and must be in the same size and boldness of type as the reference to the prize.

b. The retail value must be stated in Arabic numerals, and must be in the following form: retail value: $_____.

c. The statement of odds must include, for each prize, the total number of prizes to be given away and the total number of written prize notices to be distributed. The number of prizes and written prize notices must be stated in Arabic numerals. The statement of odds must be in the following form: _____ (number of prizes) out of _____ (notices distributed).

d. If a person is required to pay shipping or handling fees or any other charges to obtain a prize, to be eligible to obtain a prize, or to participate in a contest, a statement must appear in immediate proximity to each listing of the prize in the written prize notice in not less than ten-point boldface type as follows: YOU MUST PAY $ _____ IN ORDER TO RECEIVE OR USE THIS ITEM, or, YOU MUST PAY $ _____ IN ORDER TO COMPETE FOR THIS ITEM, as applicable.

e. The information required under subsection 2, paragraphs "e", "f", and "h" must be on the first page of the written prize notice in not less than ten-point boldface type.

f. A statement required under subsection 2, paragraph "g", must appear in immediate proximity to each representation that the person is among a group of persons with an enhanced likelihood of receiving a prize, and must be in the same type size and boldness as the representation.

Sec. 4. NEW SECTION. 714B.3 PROHIBITED PRACTICES.

1. A sponsor of a prize shall not do any of the following:

a. Deliver a written prize notice, or an envelope containing a written prize notice, that contains language, or is designed in a manner, that would have the tendency or capacity to mislead intended recipients as to the source of the written prize notice. This prohibition includes, but is not limited to, a written prize notice or envelope which indicates that the notice or envelope originates from a government agency, public utility, insurance company, consumer reporting agency, debt collector, or law firm, unless the written prize notice or envelope originates from such source.

b. Represent directly or by implication that the number of persons eligible for the prize is limited or that a person has been selected to receive a particular prize, unless the representation is true.

c. Represent that a person is a winner or finalist, has been specially selected, is in first place, or is otherwise among a limited group of persons with an enhanced likelihood of receiving a prize, or that a person is entering a contest, sweepstakes, drawing, or other competitive enterprise, from which a single winner or select group of winners will receive a prize, when in fact the enterprise is a promotional scheme designed to make contact with prospective customers and all or a substantial number of those receiving the notice are awarded the same prize.

d. Represent directly or by implication that a person will have an increased chance of receiving a prize by making multiple or duplicate purchases, payments or donations, or by entering a game, drawing, sweepstakes, or other contest more than one time, unless the representation is true. A sponsor is deemed to have made such representation if the sponsor delivers one or more prize notices to a person after the person has already made a purchase, payment, or donation to the sponsor for the same promotion, or has already entered the same game, drawing, sweepstakes, or other contest, unless the sponsor can demonstrate a bona fide error even though the sponsor has implemented procedures reasonably designed to prevent such duplication.

e. Represent directly or by implication that a person is being notified a second or final time of the opportunity to receive or compete for a prize, unless the representation is true.

f. Represent directly or by implication that a prize notice is urgent, or otherwise convey an impression of urgency by use of description, narrative copy, phrasing on an envelope, or similar method, unless there is a limited time period in which the recipient must take some action to claim or be eligible to receive a prize, and the date by which such action is required appears in immediate proximity to each representation of urgency and in the same type size and boldness as each representation of urgency.

g. Knowingly sell, rent, exchange, transfer, or otherwise furnish to or purchase from other persons, financial data regarding Iowans disclosed in connection with a prize promotion not in compliance with this chapter. For purposes of this chapter, financial data includes credit card numbers, bank account numbers, other payment device numbers, and dollars spent on prize promotions which are not in compliance with this chapter.

h. Request an individual to disclose the individual's phone number, age, birthdate, credit card ownership, or financial data in connection with a prize promotion which is not in compliance with this chapter.

2. If a written prize notice requires or invites a person to view, hear, or attend a sales presentation in order to claim a prize, the sales presentation shall not begin until the sponsor does all of the following:

a. Informs the person of the prize, if any, that has been awarded to the person.

b. If the person is awarded a prize, delivers to the person the prize or the item selected by the person as provided in section 714B.4, if the prize awarded is not available.

Sec. 5. NEW SECTION. 714B.4 PRIZE AWARD REQUIRED.

A sponsor of a prize who represents to a person that the person has been awarded a prize shall, no later than thirty days after making the representation, provide the person with the prize; with a voucher, certificate, or other document indicating the person's unconditional right to receive the prize; or with either of the following items as selected by the person:

1. Any other prize listed in the written prize notice that is available and that is of equal or greater value.

2. The retail value of the prize, as stated in the written notice, in the form of cash, a money order, or a certified check.

Sec. 6. NEW SECTION. 714B.5 INFORMATION REQUESTED BY ATTORNEY GENERAL.

A sponsor shall provide, upon the request of the attorney general made within one year after the termination date of the promotion, a record of the names and addresses of all winners of prizes of one hundred dollars or more.

Sec. 7. NEW SECTION. 714B.6 CRIMINAL PENALTIES.

A person who intentionally violates this chapter is guilty of an aggravated misdemeanor. A person intentionally violates this chapter if the act or acts in violation occur or continue after the attorney general or county attorney has notified the person by certified mail that the person is in violation of this chapter.

Sec. 8. NEW SECTION. 714B.7 CIVIL ENFORCEMENT.

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

Sec. 9. NEW SECTION. 714B.8 PRIVATE ACTION.

In addition to any other remedies, a person suffering pecuniary loss as a result of a violation of this chapter by another person may bring an action against such other person to recover all of the following:

1. The greater of five hundred dollars or twice the amount of the pecuniary loss.
2. Costs and reasonable attorney fees.

Sec. 10. NEW SECTION. 714B.9 COMPLIANCE WITH OTHER LAWS.

This chapter shall not be construed to permit an activity prohibited by section 714.16, or rules adopted pursuant to that section, or by chapter 725, or other applicable law.

Sec. 11. NEW SECTION. 714B.10 EXEMPTIONS.

This chapter does not apply to the following:

1. Advertising by sponsors registered pursuant to chapter 557B, licensed pursuant to chapter 99B, or regulated pursuant to chapters 99D, 99E, or 99F.
2. Advertising in connection with the sale or purchase of books, recordings, videocassettes, periodicals, and similar goods through a membership group or club which is regulated by the federal trade commission pursuant to code of federal regulations, Title 16, part 4525.1, concerning use of negative option plans by sellers in commerce.
3. Advertising in connection with the sale or purchase of goods ordered through a contractual plan or arrangement such as a continuity plan, subscription arrangement, or a single sale or purchase series arrangement under which the seller ships goods to a consumer who has consented in advance to receive the goods and who, after the receipt of the goods, is given an opportunity to examine the goods and to receive a full refund of charges for the goods upon return of the goods undamaged.
4. Advertising in connection with sales by a catalog seller. For purposes of this section "catalog seller" means a person at least fifty percent of whose annual revenues are derived from the sale of merchandise sold in connection with the distribution of catalogs of at least twenty-four pages, which contain written descriptions or illustrations and sale prices for each item of merchandise and which are distributed in more than one state with a total annual distribution of at least two hundred fifty thousand.

Approved May 19, 1994

CHAPTER 1186

APPROPRIATIONS — HUMAN SERVICES

S.F. 2313

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 human services and health care and providing for effective and applicability dates.

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

Section 1. FAMILY INVESTMENT PROGRAM. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For assistance under the family investment program under chapter 239:

..... $ 37,139,476

1. The department may fund the employee portion of the cash bonus program from unspent funds under the appropriation made in this section.

2. The department shall continue to contract for services in developing and monitoring an entrepreneurial training waiver program to provide technical assistance in self-employment training to families which receive assistance under the family investment program, contingent on federal approval of the annual waiver renewal requests. The waiver program shall be provided for the fiscal year beginning July 1, 1994, and ending June 30, 1995, or for as long as federal approval of the statewide program is granted.

3. The department shall continue the special needs program under the family investment program.

4. Notwithstanding section 239.6, the department is not required to reconsider eligibility of family investment program recipients every six months if a federal waiver is granted.

5. Notwithstanding any contrary provision of chapter 239, the department shall continue to implement the family investment program in accordance with the provisions of the waiver request approved by the United States department of health and human services pursuant to 1993 Iowa Acts, chapter 97, section 3.

6. The department may adopt emergency rules for the family investment, food stamp, and medical assistance programs to change or delete welfare reform initiatives that threaten the integrity or continuation of the program or that are not cost-effective. Prior to the adoption of rules, the department shall consult with the welfare reform council, members of the public involved in development of the policy established in the 1993 session, and the chairpersons and ranking members of the human resources committees of the senate and the house of representatives.

7. The department shall consolidate the individual planning and agreement provisions of the family investment program and the family development and self-sufficiency grant program to ensure service coordination by providing that if a recipient is participating in the grant program, the recipient's family investment agreement shall be developed or revised in consultation with the family development and self-sufficiency grant program worker.

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, 1994, and ending June 30, 1995, 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 for homeless prevention programs:

..... $ 1,767,500

The emergency assistance provided for in this section shall be available beginning October 1 of the fiscal year and shall be provided only if all other publicly funded resources have been exhausted. The emergency assistance includes, but is not limited to, assisting people who face

eviction, potential eviction, or foreclosure, utility shutoff or fuel shortage, loss of heating energy supply or equipment, homelessness, utility or rental deposits, or other specified crisis which threatens family or living arrangements. The emergency assistance shall be available to migrant families who would otherwise meet eligibility criteria. The department may adopt emergency rules to implement the program including eligibility criteria and benefit levels. The department may contract for the administration and delivery of the program. The program shall be terminated when funds are exhausted.

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, 1994, and ending June 30, 1995, 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:

..... $ 344,719,351

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. 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 for mental health, mental retardation, and developmental disabilities services under medical assistance which are jointly funded by the state and county, pending final settlement of the expenditures. Funds received by the case management unit in settlement of the expenditures shall be used to replace the transferred funds and are available for the purposes for which the funds were appropriated in this section.

3. a. If a medical assistance recipient is receiving care which is reimbursed under a federally approved home and community-based services waiver but would otherwise be approved for care in an intermediate care facility for the mentally retarded, the recipient's county of legal settlement shall reimburse the department on a monthly basis for the portion of the recipient's cost of care which is not paid from federal funds.

b. The department's admission requirements involving medical assistance payment for an individual's placement in an intermediate care facility for the mentally retarded shall require, prior to the placement, referral of the individual through an approved case management program. The case management program shall identify any appropriate alternatives to the placement and shall inform the individual of the alternatives. The department may adopt emergency rules to implement the provisions of this subsection.

c. The department shall conduct a study of the needs of Iowans with mental retardation or other developmental disabilities who require an intermediate level of licensed care and shall make recommendations regarding the means to best address the needs identified, including the feasibility of establishing a special classification of nursing facility for persons with mental retardation or other developmental disability whose ability to respond to active treatment protocols is limited due to age or medical needs. Participants in the study shall include representatives of the department of inspections and appeals, Iowa state association of counties, arc of Iowa, the governor's planning council for developmental disabilities, and the Iowa association of residential and rehabilitation facilities.

4. a. The county of legal settlement shall be billed for 50 percent of the nonfederal share of the cost of case management provided for adults, day treatment, and partial hospitalization in accordance with sections 249A.26 and 249A.27, and 100 percent of the nonfederal share of the cost of care which is reimbursed under a federally approved home and community-based waiver that would otherwise be approved for provision in an intermediate care facility for the mentally retarded, provided under the medical assistance program for persons with mental retardation, a developmental disability, or chronic mental illness. The state shall have responsibility for the remaining 50 percent of the nonfederal share of the cost of case management provided for 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 for 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 18 years of age or younger who are served in a medical assistance home and community-based waiver program for persons with mental retardation.

c. Medical assistance funding for case management services for eligible persons 18 years of age and under shall also be provided to persons residing in counties with child welfare decategorization projects implemented in accordance with section 232.188, provided these projects have included these persons in their service plan and the decategorization project county is willing to provide the nonfederal share of costs.

d. When paying the necessary and legal expenses of intermediate care facilities for the mentally retarded (ICFMR), the cost payment requirements of section 222.60 shall be considered fulfilled when payment is made in accordance with the medical assistance payment rates established for ICFMRs by the department and the state or a county of legal settlement is not obligated for any amount in excess of the rates.

5. The department shall expand coverage of services to children under medical assistance to include nutritional counseling services for children not eligible for women, infant and children (WIC) nutritional counseling services due to exceeding the WIC age limit or who require services in excess of those available under WIC. The department may adopt emergency rules in order to implement this change.

6. Upon receipt of a federal waiver, the department may adopt and implement emergency rules to establish a prepaid mental health services plan for medical assistance patients. The rules shall include but not be limited to defining the structure of the program, establishing the scope of services to be provided in the program, establishing client eligibility for prepaid mental health services, establishing the basis and rate of reimbursement for the program, defining the expected outcome measures of the program, and defining a client appeal process. Notwithstanding the provisions of subsection 4, paragraph "a", of this section and section 249A.26, requiring counties to pay all or part of the nonfederal share of certain services provided to persons with disabilities under the medical assistance program, the state shall pay 100 percent of the nonfederal share of any services included in the plan implemented pursuant to this subsection. The department shall report to the legislative fiscal committee of the legislative council concerning implementation of the prepaid mental health services plan for medical assistance patients, including but not limited to the decision-making process involved in the awarding of any contract under this subsection.

7. 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, subsection 6. Of the funds allocated in this subsection, not more than $10,000 may be expended for administrative purposes.

8. The department of human services shall seek a federal waiver to implement a pilot project to allow up to 16 nursing homes, as defined in section 155.1, to be operated under an outcome-based alternative plan for regulatory compliance. The waiver shall include a request for suspension of federal regulations which the department identifies as more restrictive than necessary to provide a safe and healthy environment for residents of a nursing home. Following approval of the waiver, the department shall establish a request for proposal, or other research-based selection process, and shall select up to 16 nursing homes to operate under the

alternative system, based upon criteria and requirements which shall include but are not limited to all of the following:

a. The department of inspections and appeals shall utilize the regulations established for the pilot project for state licensure survey purposes, except during adverse actions such as fining and citation, conditional licensure or license revocation proceedings, in which cases existing state licensure rules shall be used. The department of inspections and appeals shall investigate complaints registered against homes involved in the pilot project utilizing the federal regulations developed for those homes. State licensure rules shall be utilized if adverse action results from a complaint investigation. The nursing home shall comply with the requirements of chapter 481 I.A.C. 61, applicable state law, and applicable fire regulations.

b. The department shall adopt rules which establish the minimum requirements for alternative nursing homes, and the nursing homes shall comply with the minimum requirements established.

c. The nursing homes shall develop and implement a written plan of operation which is outcome-based and which establishes goals for the home 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.

d. The nursing homes shall provide for input from the residents regarding the most appropriate environment and services to the residents.

e. The nursing homes shall report annually to the department regarding the success of the nursing homes in reaching the goals established and regarding recommendations for additional improvements in the structure and operation of the nursing homes and the services provided the residents of the homes.

f. The department shall annually report to the chairpersons and ranking members of the joint appropriations subcommittee on human services on the progress of the pilot project and shall include in the report recommendations regarding the use of alternatives to standard nursing homes.

9. The department of human services may employ not more than two additional full-time equivalent positions and shall use no more than $45,000 of the funds appropriated in this section to develop a medical assistance home and community-based waiver for persons with brain injury who currently reside in a medical institution and who have been residents of a medical institution for a minimum of thirty consecutive days.

10. The department shall not provide medical assistance coverage of drugs which are prescribed for an individual for fertility purposes.

11. The department shall review the listing of organ transplants covered by medical assistance. The review shall include consideration of insurance industry standards and practice methods and procedures; one-year, two-year, and three-year survival rates; and best available practices and research. Coverage shall be determined by medical necessity criteria. If the review concludes that coverage of additional organ transplants is appropriate, the department shall request the general assembly to provide funding for the coverage for fiscal year 1995-1996. The department shall review, at least annually, the current listing of organ transplants which may be covered by medical assistance.

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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For medical contracts:

..... $ 5,630,350

1. The department shall continue to contract for drug utilization review under the medical assistance program.

2. The department shall determine, in consultation with the drug utilization review commission, the feasibility of assigning a unique identification number to each individual pharmacist.

3. The department may use not more than $60,000 of the funds appropriated in this section to contract for services to expand the point of service reimbursement system.

4. The department shall conduct a study of the reimbursement methodology for home intravenous pharmacy products and services and develop a proposal for revising the methodology to provide adequate compensation for the products and services. The proposal shall be submitted to the governor and the legislative fiscal bureau on or before January 1, 1995.

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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For state supplementary assistance:

..... $ 19,315,000

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, 1994, and ending June 30, 1995, 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:

..... $ 7,397,259

1. Of the funds appropriated in this section, $3,146,286 shall be used for protective child day care assistance.

2. Of the funds appropriated in this section, $2,430,934 shall be used for state child care assistance.

3. Based upon the availability of the funding provided in subsection 2 the department shall establish waiting lists for state child care assistance in descending order of prioritization as follows:

a. Families who are at or below 100 percent of the federal poverty level and are employed at least 30 hours a week.

b. Parents under the age of 21 who are employed full-time or part-time or who are participating in an approved training program or who are enrolled in an education program.

c. Families who are at or below 155 percent of the federal poverty level who have a special needs child.

d. Families who are at or below 100 percent of the federal poverty level who are employed part-time at least 20 hours per week.

4. a. The funds allocated in this section for protective and state child care assistance shall be allocated to the department of human services regions and each region shall distribute the allocation to the counties within the region. If a region determines that a specified portion of the funds provided to a county in that region is sufficient to meet the county's current demand and projected growth, the region may transfer the excess amount of funds to another county in that region. If the region determines that a specified portion of the funds provided to the region is sufficient to meet the region's current demand and projected growth for the remainder of the fiscal year, the excess amount may be transferred for use in another region.

b. For state child care assistance, eligibility shall be limited to children whose family income is equal to or less than 100 percent of the federal office of management and budget poverty guidelines. However, on or after October 1, 1994, the department may increase the income eligibility limit to be equal to or less than 75 percent of the Iowa median family income.

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; 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.

5. Of the funds appropriated in this section, $640,270 is allocated for the statewide program for child day care resource and referral services under section 237A.26.

6. The department may use any of the funds appropriated in this section as a match to obtain federal funds for use in expanding child day care assistance and related programs.

7. a. Of the funds appropriated in this section, $1,179,769 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.

8. During the 1994-1995 fiscal year, the department shall utilize the moneys deposited in the child day care credit fund created in section 237A.28 for state child care assistance, in addition to the moneys appropriated for that purpose in this section.

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, 1994, and ending June 30, 1995, 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 family investment agreements, in accordance with this section:

..... $ 12,071,270

1. Of the funds appropriated in this section, $11,161,970 is allocated for the JOBS program.

2. Notwithstanding any contrary provisions of chapter 249C, the department shall implement work and training programs in accordance with the waiver request approved by the United States department of health and human services pursuant to 1993 Iowa Acts, chapter 97, section 3.

3. Of the funds appropriated in this section, $129,985 is allocated for the food stamp employment and training program.

4. Of the funds appropriated in this section, $779,315 is allocated to the family development and self-sufficiency grant program as provided under section 217.12.

a. Not more than 5 percent of the funds allocated in this subsection shall be used for the administration of the grant program.

b. Federal funding matched by state, county, or other funding which is not appropriated in this section shall be deposited in the department's JOBS account. If the match funding is generated by a family development and self-sufficiency grantee, the federal funding received shall be used to expand the family development and self-sufficiency grant program. If the match funding is generated by another source, the federal funding received shall be used to expand the grant program or the JOBS program. The department may adopt emergency rules to implement the provisions of this paragraph.

c. Based upon the annual evaluation report concerning each grantee funded by this allocation, the family development and self-sufficiency council may use funds allocated to renew grants.

Sec. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For child support recovery, including salaries, support, maintenance, and miscellaneous purposes:

..... $ 4,951,546

1. The director of human services, within the limitations of the funds appropriated in this section, or funds transferred from the family investment program for this purpose, shall establish new positions and add employees to the child support recovery unit if the director determines that both the current and additional employees together can reasonably be expected to maintain or increase net state revenue at or beyond the budgeted level. If the director adds 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. Nonpublic assistance application and user fees received by the child support recovery program are appropriated and shall be used for the purposes of the child support recovery program. The director of human services may add positions if fees collected relating to the new positions are sufficient to pay the salaries and support for the positions. The director shall report any 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, is authorized to receive and deposit state child support incentive earnings in the manner specified under applicable federal requirements.

4. The director of human services may establish new positions and add 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 continue to work with the judicial department to determine the feasibility of a pilot project utilizing a court-appointed referee for judicial determinations on child support matters. 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.

7. Of the funds appropriated in this section the department shall use up to $30,000 to establish a pilot program option in not more than ten counties within one judicial district to provide and supervise a community service pilot project for absent parents who are ordered by the court to perform community service for failure to pay child support pursuant to section 598.23A. Notwithstanding the existing community service work requirements of section 598.23A, the department, in cooperation with the office of the attorney general, shall establish parameters for the participation of an absent parent in the pilot program. Funding shall be provided for the administration of the pilot project which shall include reimbursement for the services of an attorney employed by the office of the attorney general, office equipment, transportation costs of the attorney, service fees for contempt of court actions, contracting fees for an agency to provide and supervise the community service pilot project, and transportation costs for community service participants. The department may adopt emergency rules to implement the provisions of this subsection.

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, 1994, and ending June 30, 1995, the following amount, 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:

..... $ 12,937,878

1. The following amounts of the funds appropriated in this section are allocated for the Iowa juvenile home at Toledo:

..... $ 4,799,897

2. The following amounts of the funds appropriated in this section are allocated for the state training school at Eldora:

..... $ 8,137,981

3. During the fiscal year beginning July 1, 1994, 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 for the fiscal year beginning July 1, 1994.

5. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the 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 the appropriations. The report shall include a comparison of actual to budgeted expenditures for each institution.

Sec. 10. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For child and family services:

..... $ 74,617,612

1. The department may transfer moneys appropriated in this section as necessary to pay the nonfederal costs of services reimbursed under medical assistance or the family investment program which are provided to children who would otherwise receive services paid under the appropriation in this section. The department may transfer funds appropriated in this section to the appropriations in this Act for general administration and for field operations for resources necessary to implement and operate the services funded in this section.

2. a. Of the funds appropriated in this section, up to $23,309,136 is allocated for group foster care maintenance and services. For the fiscal year beginning July 1, 1994, the statewide target, as provided in section 232.143, for the average number of children placed in group foster care services in any day of the fiscal year which are a charge upon or 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 developed 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 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 alternative services would meet the child's service needs and to assist the region in reducing the number of children in group foster care placements in 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 placements in the 1994-1995 fiscal year. The department may adopt emergency rules to implement the provisions of this paragraph.

b. In each quarter of the fiscal year, the department shall compare the actual number of group foster care placements in a region and the targets allocated to the region for that

quarter. The department shall develop a methodology to provide, within the funds allocated in this subsection, fiscal incentives to regions which have reduced the number or length of group foster care placements.

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. 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, 1994. The department may adopt emergency rules to implement the provisions of this paragraph.

e. The reimbursement rates paid for placement of children out-of-state shall be calculated according to the same rate-setting principles as those used for in-state providers, unless the director determines that appropriate care cannot be provided within the state.

f. The department shall not certify any additional enhanced residential treatment beds except those beds for which applications for certification were received on or before February 1, 1994, unless the director of human services approves the beds as necessary, based on the type of children to be served and the location of the enhanced residential treatment beds. The department may adopt emergency rules to implement the provisions of this paragraph.

g. Of the funds appropriated in this section, not more than $6,529,390 is allocated as the state match funding for psychiatric medical institutions for children.

3. 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.

4. 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 for this purpose which was initiated in the fiscal year beginning July 1, 1993, 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.

5. 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, 1995. 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 the 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 beginning of the next 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.

6. Of the funds appropriated in this section, up to $92,009 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". However, if funding in this appropriation would remain unobligated at the end of the fiscal year, the allocation in this subsection may be exceeded to the extent necessary to provide the continued foster care services. 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.

7. 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).

8. Notwithstanding section 232.142, subsection 3, the financial aid paid by the state for the establishment, improvements, operation, and maintenance of county or multicounty juvenile detention homes in the fiscal year beginning July 1, 1994, shall be limited to $510,000. Funds allocated in this subsection shall be prorated among eligible detention homes.

9. 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 those funds 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.

10. 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.

11. Notwithstanding section 234.35, subsection 1, state funding for shelter care paid pursuant to section 234.35, subsection 1, paragraph "h", shall be limited to $6,710,720 for the fiscal year beginning July 1, 1994. The department may adopt emergency rules to implement the provisions of this subsection.

12. Of the funds appropriated in this section, not more than $500,297 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. The department may transfer funds as necessary from the appropriations in this Act for field operations and general administration to implement this subsection. Moneys allocated in accordance with this subsection shall be considered encumbered for the purposes of section 8.33.

13. The department shall continue training seminars 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, and on family-centered approaches to serving children and families. 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 addition, the department shall work 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 also incorporate family-centered approaches to serving families into the department's general child welfare training for child welfare workers. The department shall use not more than $132,006 of the funds appropriated in this section for the contract. The department shall seek assistance from the reasonable efforts model court project, the child welfare league of America, the national association of family-based services, the national conference of state legislatures, and private foundations; and shall draw from successful initiatives used in other states in implementing the provisions of this subsection.

14. Of the funds appropriated in this section, not more than $1,036,680 may be used for respite services to families of children with mental retardation or other developmental disabilities, who would otherwise enter or continue group care placement.

15. Of the funds appropriated in this section, up to $682,766 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.

c. For personnel, assigned by the attorney general, to provide additional services relating to termination of parental rights and child in need of assistance cases.

d. For specialized permanency planning field operations staff.

16. The department shall continue to contract for family foster care homes developed for children who present severe emotional or behavioral management problems who might otherwise be placed in group foster care. 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 per 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.

17. Upon receipt of federal approval, the department shall utilize the federal emergency assistance program to fund approved children and family services under this section and other programs providing emergency services to families and children. The department may transfer moneys appropriated in this section, as necessary, to pay the nonfederal share of services reimbursed under the emergency assistance program which are provided to children and families who would otherwise receive the services. 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 standards, cost principles, rate-setting,

contract requirements, service and financial eligibility criteria, claims submission criteria and program accountability standards. The department shall work with affected parties in developing the rules authorized in this subsection.

18. The department shall adopt rules for purchase of recruitment and home studies as necessary to secure an adequate number of foster families to serve children needing foster care placement. In implementing the provisions of this subsection, the department may issue requests for proposals, establish a flat fee schedule, or expand the pool of providers from which the services are purchased. The department may adopt emergency rules to implement the provisions of this subsection.

19. The director of human services shall appoint a committee to advise the director concerning managed care approaches and implementation considerations for determining service necessity for children served by psychiatric medical institutions for children (PMIC). The members of the committee shall include persons who are knowledgeable about these issues, as well as representatives of PMIC providers and in-patient psychiatric hospitals. The director shall select the system under which service-necessity determinations for PMICs will be managed and shall place the PMIC determinations under that system on or after November 1, 1994. The director's decision shall be based on the following criteria: the needs of the children served by PMIC facilities under the system in effect prior to November 1, 1994, the department's ability to assure prompt access to care, the department's ability to promote affordable effective care, the degree of coordination with other services for which the state is responsible, the department's ability to assure that service decisions support the principles of least restrictive and most appropriate care, and consistency of the service management system with legal expectations. If necessary to implement the director's decision, the department may transfer moneys appropriated in this section to the appropriation in this Act for medical assistance and amend the managed mental health care contract to include PMICs, or include PMIC placements in the statewide target for group foster care placements in subsection 2, paragraph "a", in which case the statewide target shall be increased to be not more than 1,733, as determined by the director. If the director decides to include PMICs in the statewide target, the regional plans developed by the department and the juvenile court pursuant to section 232.143 shall be revised to include PMIC placements. The department may adopt emergency rules to implement the provisions of this subsection.

20. The department shall appoint a committee to review whether unnecessary or redundant reporting or referral provisions are required by the department's medical assistance children's service initiative. Committee members shall include referral workers, clinical assessment and consultation team members, service providers, and other appropriate persons. The committee shall submit a report to the director of human services, and the director shall make a determination regarding these issues by November 1, 1994. The department may adopt emergency rules to appropriately revise the provisions in accordance with the director's determination.

21. The department and the juvenile court shall conduct an assessment of the service needs and demographic characteristics of the children and families served through the department's child welfare, juvenile justice, and mental health systems. The assessment shall be coordinated with the efforts of the child welfare task force to develop profiles of the general characteristics of children and families utilizing those service systems. The department shall report the findings of the assessment to the members of the joint appropriations subcommittee on human services and the legislative fiscal bureau by June 30, 1995.

Sec. 11. 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, 1994, and ending June 30, 1995, 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:

..... $ 2,256,126

1. Of the funds appropriated in this section, $652,451 shall be used for adolescent pregnancy prevention grants, including not more than $152,451 for programs to prevent second or subsequent pregnancies during the adolescent years and to provide support services for pregnant or parenting adolescents. Rules adopted by the department may allow for revision of existing grant categories and the addition of grant categories which allow for the development and initiation of a statewide adolescent pregnancy prevention campaign and of a statewide assessment or evaluation grant. The department may adopt emergency rules to implement the provisions of this subsection.

2. Of the funds appropriated in this section, $300,000 shall be used for grants to community or regional groups which demonstrate broad-based representation from community representatives including but not limited to schools, churches, human service-related organizations, and businesses. Priority in the awarding of grants shall be given to groups which provide services to both urban and rural areas within the proximity of the community or region and which provide age-appropriate programs adapted for both male and female youth at the elementary, middle, and high school levels. A program shall focus on the prevention of initial pregnancies during the adolescent years by emphasizing sexual abstinence as the only completely safe and effective means of avoiding pregnancy and sexually transmitted diseases and by providing information regarding the comparative failure rates of contraceptives, and by emphasizing responsible decision making in relationships, managing of peer and social pressures, development of self-esteem, the costs and responsibilities of parenting, and information regarding the alternative of adoption for placement of a child. The program shall also include an evaluation and assessment component which includes evaluation of and recommendations for improvement of the program by the youth and parents involved. Evaluation and assessment reports shall be provided to the department of human services, at a time determined by the department in the grant award. Community or regional groups interested in applying for a grant under this subsection may be issued a planning grant or may utilize grant moneys for the costs of technical assistance to analyze community needs, match service providers to needs, negotiate service provision strategies, or other assistance to focus grant services provided under this subsection. The technical assistance may be provided by organizations affiliated with institutions under the authority of the state board of regents or other organizations experienced in providing technical assistance concerning similar services. The department may adopt emergency rules to implement the provisions of this subsection.

3. Of the funds appropriated in this section, $532,789 shall be used by the department for child abuse prevention grants.

4. Of the funds appropriated in this section, an additional $300,000, based upon the amount allocated for this purpose in the previous fiscal year, shall be used for family planning services.

Sec. 12. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

Payment of the expenses of court-ordered services provided to juveniles which are a charge upon the state pursuant to section 232.141, subsection 4:

..... $ 3,090,000

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.

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 district shall not order any service which is a charge upon the state pursuant to section 232.141 if there are insufficient court-ordered services funds available in the district allocation to pay for the service. The chief juvenile court officer shall work with the judicial district planning group to encourage use of the funds appropriated in this section such that there are sufficient funds to pay for all court-related services during the entire year. The eight chief juvenile court officers shall attempt to anticipate potential surpluses and shortfalls in the allocations and shall cooperatively request the state court administrator to transfer funds between the districts' allocations as prudent.

6. Notwithstanding any provision of law to the contrary, a district or juvenile court shall not order a county to pay for any service provided to a juvenile pursuant to an order entered under chapter 232 which is a charge upon the state under section 232.141, subsection 4.

7. Of the funds appropriated in this section, not more than $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. Of the funds appropriated in this section, not more than $200,000 may be transferred to the appropriation in this Act for child and family services and used to provide school-based supervision of children adjudicated under chapter 232.

Sec. 13. 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, 1994, and ending June 30, 1995, the following amount, 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:

..... $ 42,470,116

1. The funds appropriated in this section are allocated as follows:

a. State mental health institute at Cherokee:

..... $ 14,425,374

b. State mental health institute at Clarinda:
..... $ 6,008,952
c. State mental health institute at Independence:
..... $ 17,153,764
d. State mental health institute at Mount Pleasant:
..... $ 4,882,026

2. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the appropriation.

3. The department shall report to the legislative fiscal bureau, on or before the twentieth day of each month, the department's current expenditures for the institutions receiving allocations under this appropriation. The report shall include a comparison of actual to budgeted expenditures for each institution.

4. As part of the discharge planning process at the state mental health institutes, the department shall provide assistance in obtaining eligibility for federal supplemental security income (SSI) to those individuals whose care at a state mental health institute is the financial responsibility of the state.

5. The department shall develop a proposal for implementing a forensic mental health unit. The proposal shall be submitted to the governor and the members of the joint appropriations subcommittee on human services on or before January 15, 1995.

Sec. 14. 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, 1994, and ending June 30, 1995, the following amount, 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:
..... $ 65,789,681

1. The funds appropriated in this section are allocated as follows:
a. State hospital-school at Glenwood:
..... $ 35,497,594
b. State hospital-school at Woodward:
..... $ 30,292,087

2. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the 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. 15. MENTAL ILLNESS – 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For mental illness, mental retardation, and developmental disabilities special services:
..... $ 121,220

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 the 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. As the facilities are developed, the department shall assure that clients are referred to the facilities upon their development.

2. The funds appropriated in this section are to provide funds for construction and start-up costs to develop community living arrangements to provide for persons who are mentally ill and homeless. These funds may be used to match federal Stewart B. McKinney Homeless Assistance Act grant funds.

Sec. 16. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the family support subsidy program:

..... $ 1,082,550

Sec. 17. 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, 1994, and ending June 30, 1995, 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. 18. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For purchase of local services for persons with mental illness, mental retardation, and developmental disabilities services where the client has no established county of legal settlement:

..... $ 5,973,492

Sec. 19. 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, 1994, and ending June 30, 1995, 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:

..... $ 29,277,958

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, or brain injury (MI/MR/DD/BI). However, no more than 50 percent of the funding shall be used for services provided to any one of the service populations.

b. A county shall use at least 50 percent of the funding the county receives under subsection 1 for contemporary services provided to persons with MI/MR/DD/BI.

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.

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.

e. (1) A county is entitled to receive money from this appropriation if that county raised by county levy and expended for mental health, mental retardation, and developmental disabilities services, in the preceding fiscal year, an amount of money at least equal to the amount so raised and expended for those purposes during the fiscal year beginning July 1, 1980.

(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 which ended on July 1, 1980, and this amount shall be deemed each county's maintenance of effort.

6. a. Of the funds appropriated in this section, $13,287,625 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: adult support, adult day care, administrative support for volunteers, community supervised apartment living arrangements, residential services for adults, sheltered work, supported employment, supported work training, transportation, and work activity.

c. In purchasing services with funds allocated in this subsection, a county shall designate a person to provide for eligibility determination and development of a case plan for individuals for whom the services are purchased. The designated person shall be a medical assistance case manager serving the person's county of residence. If an individual does not have a case manager, the individual's eligibility shall be determined by a social services caseworker of the department serving the individual's county of residence. The case plan shall be developed in accordance with the department's rules outlining general provisions for service administration.

d. Services purchased with funds allocated in this subsection must be the result of a referral by the person who identified the services in developing the individual's case plan.

e. Services purchased with funds allocated in this subsection must be under a purchase of service contract established in accordance with the department's administrative rules for purchase of service.

f. The funds provided by this subsection shall be allocated to each county as follows:

(1) Fifty percent based upon the county's proportion of the state's population of persons with an annual income which is equal to or less than the poverty guideline established by the federal office of management and budget.

(2) Fifty percent based upon the amount provided to the county for local purchase services in the preceding fiscal year.

g. Each county shall submit to the department a plan for funding of the services eligible for payment under this subsection. The plan may provide for allocation of the funds for one or more of the eligible services. The plan shall identify the funding amount the county allocates for each service and the time period for which the funding will be available. Only those services which have funding allocated in the plan are eligible for payment with funds provided in this subsection.

h. A county shall provide advance notice to the individual receiving services, the service provider, and the person responsible for developing the case plan of the date the county determines that funding will no longer be available for a service.

i. Moneys allocated to a county pursuant to paragraph "f" shall be provided to the county as claims are submitted to the state.

j. The moneys provided under this subsection do not establish an entitlement to the services funded under this subsection.

7. Of the funds allocated in subsection 1, not more than $248,862 shall be provided to those counties having supplemental per diem contracts in effect on June 30, 1994, under 1993 Iowa Acts, chapter 172, section 16, subsection 2. The amount provided to each county shall be equal to the amount the county would be eligible to receive under the supplemental per diem contracts in effect on June 30, 1994, if the contracts were continued in effect for the entire fiscal year beginning July 1, 1994.

8. Of the funds appropriated in this section, $321,000 shall be allocated to counties in accordance with the methodology for distribution of local purchase of services moneys in subsection 6, paragraph "f". The moneys provided pursuant to this subsection shall be used by counties to increase reimbursement rates for local purchase services listed in subsection 6, paragraph "b". The moneys provided in this subsection shall not be considered by the department in any calculation or methodology involving the purchase of service system.

9. The department of human services shall cooperate with the division of vocational rehabilitation of the department of education in assuring that counties are aware of any opportunities to utilize purchase of service funds to match federal funds available to provide vocational services to persons eligible for services under subsection 6.

Sec. 20. 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, 1994, and ending June 30, 1995, 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:
..... $ 37,567,639

Sec. 21. 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, 1994, and ending June 30, 1995, 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:

..... $ 9,587,716

Of the funds appropriated in this section, $57,090 is allocated for the prevention of disabilities policy council established in section 225B.3.

Sec. 22. COUNCIL ON HUMAN INVESTMENT. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 139,200

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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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:

..... $ 1,411,703

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, 1994, the department of human services may allocate any increases in payments 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, 1994, 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, 1994.

c. For the fiscal year beginning July 1, 1994, early and periodic screening, diagnosis, and treatment program providers shall have their medical assistance rates for screening increased by 5 percent over the rates in effect on June 30, 1994.

d. For the fiscal year beginning July 1, 1994, skilled nursing facilities shall have their medical assistance rates increased by 4.9 percent over the rates in effect on June 30, 1994.

e. The dispensing fee for pharmacists shall remain at the rate in effect on June 30, 1994. The reimbursement policy for drug product costs shall be in accordance with federal requirements.

f. (1) Reimbursement rates for in-patient services shall be increased by an average of 4.2 percent over the rates in effect on June 30, 1994. Effective July 1, 1994, the department shall implement a new outpatient hospital reimbursement system based upon ambulatory patient groups. Reimbursements made in the initial twelve-month implementation period of the new

system shall be retrospectively adjusted so that the reimbursement made is within a five percent deviation of the lower of cost or charges for the services provided during the fiscal year ending June 30, 1994, as adjusted to reflect actual changes in inflation, increased insureds, utilization per insured, and acuity of service.

(2) Effective July 1, 1994, the department shall implement a revised medical assistance payment policy to provide that reimbursement for costs of screening and treatment provided in the hospital emergency room is made pursuant to the prospective payment methodology developed by the department for the payment of outpatient services provided under the medical assistance program. The department shall implement both the revised policy for screening and treatment costs and the prospective payment methodology for other medical assistance services at the same time. The payment system for reimbursement of costs of screening and treatment provided in the hospital emergency room in effect during the fiscal year beginning July 1, 1993, shall not continue beyond June 30, 1994.

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 70th percentile of facility costs as calculated from the June 30, 1994, 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, and within the appropriation for medical assistance as a whole, the department shall adjust the maximum medical assistance reimbursement for nursing facilities to the 70th percentile, as calculated on December 31, 1994, unaudited compilation of cost and statistical data and the adjustment shall take effect January 1, 1995.

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 or similar analysis to identify differences in hospital in-patient utilization. In addition, the department shall identify incentives to reward efficient, effective, and quality care.

m. The drug utilization review commission shall conduct a study to review alternative payment systems for compensation of pharmacists for the provision of pharmaceutical care services and shall submit a report of findings and recommendations regarding a payment system to the legislative fiscal bureau and to the chairpersons and ranking members of the joint appropriations subcommittee on human services by November 30, 1994.

2. For the fiscal year beginning July 1, 1994, the maximum cost reimbursement rate for residential care facilities reimbursed by the department shall be $20.02 per day. The flat reimbursement rate for facilities electing not to file semiannual cost reports shall be $14.31 per day. For the fiscal year beginning July 1, 1994, the maximum reimbursement rate for providers reimbursed under the in-home health-related care program shall be $390.15 per month.

3. Unless otherwise directed in this section, when 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, 1993.

4. Notwithstanding section 234.38, in the fiscal year beginning July 1, 1994, the foster family basic monthly maintenance rate and the maximum adoption subsidy rate for children ages 0 through 5 years shall be $341, the rate for children ages 6 through 11 years shall be $356, the rate for children ages 12 through 15 years shall be $397, and the rate for children ages 16 and

older shall be $423. Effective July 1, 1994, the monthly allowance for children in independent living shall be $441. Effective July 1, 1994, the department shall increase the maximum start-up allowance for children in independent living from $250 to $400.

5. For the fiscal year beginning July 1, 1994, the maximum reimbursement rates for social service providers shall be the same as the rates in effect on June 30, 1994, except under any of the following circumstances:

a. If a new service was added after June 30, 1994, the initial reimbursement rate for the service shall be based upon actual and allowable costs.

b. If a social service provider loses a source of income used to determine the reimbursement rate for the provider, the provider's reimbursement rate may be adjusted to reflect the loss of income, provided that the lost income was used to support actual and allowable costs of a service purchased under a purchase of service contract.

6. The department may adopt emergency rules to implement the provisions of this section.

Sec. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the gamblers assistance program:

..... $ 21,000

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. FAMILY INVESTMENT PROGRAM — TRANSITIONAL CHILD CARE ASSISTANCE WAIVERS.

1. The department of human services shall submit a request or requests to the United States department of health and human services for authorization to implement the following waivers of requirements involving the federal-state family investment program and federal-state transitional child care assistance while continuing to draw federal funding for the waivered services at the same matching funds rate as provided for transitional child care assistance:

a. A waiver of federal requirements to provide transitional child care assistance benefits to family investment program recipients who have earned income and who voluntarily terminate benefits under the family investment program.

b. A waiver of federal requirements to provide transitional child care assistance benefits to family investment program recipients who have earned income and who are terminated from the family investment program due to receipt of child support.

c. A waiver of federal requirements to provide that if the department determines that state funding is not sufficient to pay the state share of costs of all recipients who would be eligible for transitional child care assistance benefits under this subsection, the department may deny eligibility for the benefits or establish a waiting list for access to the benefits.

2. Subject to federal approval of the waiver requests in subsection 1, the department shall determine the extent by which funding allocated in this Act for transitional child care assistance is sufficient to provide transitional child care assistance benefits in accordance with the federally approved waivers. The department shall provide the benefits in accordance with the federal waivers and to the extent funding is determined to be available.

Sec. 28. 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. In addition, the department may take other actions to utilize the facilities of an institution, including but not limited to assisting not-for-profit users with

remodeling and lease costs by forgiving future rental or lease payments to the extent necessary for a period not to exceed five years.

Sec. 29. INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED — CERTIFICATE OF NEED.

1. Notwithstanding the provisions of 1993 Iowa Acts, chapter 172, section 28, prohibiting the Iowa department of public health and the health facilities council from processing applications for and considering certificates of need for new or changed institutional health services for an intermediate care facility for the mentally retarded, for the fiscal year beginning July 1, 1994, the department and council shall process applications and consider applications if either of the following conditions are met:

a. An institutional health facility is reducing the size of the facility's intermediate care facility for the mentally retarded program and wishes to convert an existing number of the facility's approved beds in that program to smaller living environments in accordance with state policies in effect regarding the size and location of such facilities.

b. An institutional health facility proposes to locate a new intermediate care facility for the mentally retarded in an area of the state identified by the department of human services as underserved by intermediate care facility for the mentally retarded beds.

2. Both of the following requirements shall apply to an application considered under this section:

a. The new or changed beds shall not result in an increase in the total number of medical assistance certified intermediate care facility for the mentally retarded beds in the state as of July 1, 1994.

b. A letter of support for the application is provided by the director of human services and the county board of supervisors, or the board's designee, in the county in which the beds would be located.

3. The department of human services may adopt emergency rules to implement the provisions of this section.

Sec. 30. FISCAL YEAR 1993-1994 COUNCIL ON HUMAN INVESTMENT APPROPRIATION. Moneys appropriated to the department of human services for administrative costs of the council on human investment in 1993 Iowa Acts, chapter 180, section 60, shall be considered encumbered for purposes of section 8.33 and shall be used during the succeeding fiscal year for the purpose designated.

Sec. 31. CHILD WELFARE TASK FORCE CONTINUED. The date by which the child welfare task force established in 1992 Iowa Acts, chapter 1241, section 11, is required to complete its duties is extended to June 30, 1995. The task force shall perform planning activities relating to the family preservation and support services amendments to the federal Budget Reconciliation Act of 1993, Pub. L. No. 103-66, § 13711 et seq. The task force shall issue an interim report on or before November 15, 1994, concerning its findings and activities and shall issue a final report on or before the completion date provided in this section. As part of the final report, the task force shall examine profiles of general characteristics of children and families which utilize the systems in the state for child welfare, juvenile justice, and mental health.

Sec. 32. Section 99E.10, subsection 1, paragraph a, Code Supplement 1993, is amended by striking the paragraph and inserting in lieu thereof the following:

a. An amount equal to three-tenths of one percent of the gross lottery revenue shall be deposited in a gamblers assistance fund in the office of the treasurer of state. The director of human services shall administer the fund and shall provide that receipts are allocated on a monthly basis to provide programs which may include, but are not limited to, outpatient and follow-up treatment for persons affected by problem gambling, rehabilitation and residential treatment programs, information and referral services, and education and preventive services.

Sec. 33. Section 99F.11, subsection 3, Code 1993, is amended to read as follows:

3. ~~Three~~ Three-tenths of one percent of the adjusted gross receipts shall be deposited in the gamblers assistance fund specified in section 99E.10, subsection 1, paragraph "a".

Sec. 34. Section 252.16, subsection 6, Code 1993, is amended to read as follows:

6. Subsections 1, 2, 3, ~~and~~ 7, and 8 do not apply to a blind person who is receiving assistance under the laws of this state. A blind person receiving assistance who has resided in one county of this state for a period of six months acquires legal settlement for support as provided in this chapter. However, a blind person who is an inpatient or resident of, or is supported by a state hospital-school created under chapter 222, a state mental health institute created under chapter 226, or the Iowa braille and sight saving school administered by the state board of regents does not acquire legal settlement in the county in which the institution is located.

Sec. 35. 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 and the rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. In addition, the department may adopt administrative rules in accordance with the provisions of this section as necessary to comply with federal requirements or to adjust to a change in the level of federal funding which affect refugee programs during the fiscal year beginning July 1, 1994, 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. 36. EFFECTIVE DATE. The following provisions of this Act, being deemed of immediate importance, take effect upon enactment:

1. Section 10, subsection 2, paragraph "d", relating to development of a formula for allocating certain group foster care beds.
2. Section 10, subsection 2, paragraph "f", relating to certification of additional enhanced residential treatment beds.
3. Section 10, subsection 19, relating to psychiatric medical institutions for children.
4. Section 10, subsection 20, relating to the department's medical assistance childrens' services initiative.
5. Section 12, subsection 1, relating to a determination of allocations by the state court administrator.
6. Section 19, subsection 5, paragraph "c", relating to submission of MI/MR/DD/BI plans to the department.
7. Section 31, relating to the continuation of the child welfare task force.

Sec. 37. REPEAL. Section 237.23, Code Supplement 1993, is repealed.

Sec. 38. Section 37 of this Act takes effect June 30, 1994.

Approved April 14, 1994

CHAPTER 1187

APPROPRIATIONS — REGULATORY BODIES

S.F. 2218

AN ACT making appropriations and certain related statutory changes related to regulatory bodies of state government, including the auditor of state, the Iowa ethics and campaign disclosure board, 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, 1994, and ending June 30, 1995, 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:

.....	$	1,242,525
.....	FTEs	112.50

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.

Notwithstanding section 8.33, all moneys appropriated pursuant to this section which remain unencumbered and unobligated on June 30, 1995, shall not revert to the general fund of the state and may be expended to upgrade, replace, or improve computer equipment used in the auditor's offices. The office of the auditor of state shall report to the legislative fiscal committee not later than December 1, 1995, the items and cost of the computer equipment which is upgraded, replaced, or improved as provided in this paragraph.

Sec. 2. IOWA ETHICS AND CAMPAIGN DISCLOSURE BOARD. There is appropriated from the general fund of the state to the Iowa ethics and campaign disclosure board for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

.....	$	426,104
.....	FTEs	8.00

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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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**:

*Item veto; see message at end of the Act

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:

..... $ 2,410,029

..... FTEs 87.00

The division of labor services shall require that all federally funded Occupational Safety and Health Act personnel attend a series of customer service classes, and that focus groups be established, which involve the participation of the personnel, the businesses subject to inspections, and employees of the businesses, to develop a survey of such businesses. The division of labor services shall consider the possibility of conducting educational sessions on the Iowa communications network for representatives of cities, counties, schools, businesses, secondary school students enrolled in vocational technical classes, and other affected persons, concerning Occupational Safety and Health Act requirements. The survey shall be used by the division to determine customer satisfaction. The division shall provide a written report summarizing the results of the survey to the department of management and the legislative fiscal bureau no later than January 1, 1995.

It is the intent of the general assembly that the division of labor services shall conduct all inspection functions in the division as efficiently as possible. The division shall, to the extent possible, eliminate duplicate travel to the same location for separate inspections made at different times, and shall consolidate such inspections in the same trip whenever possible.

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:

..... $ 2,106,249

..... FTEs 33.00

3. For salary, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions for a workforce development coordinator and council:

..... $ 80,000

..... FTEs 1.00

The workforce development coordinator shall formulate a five-year written implementation plan for the workforce development initiative. The coordinator shall annually provide a written report no later than January 1 of each year to the department of management and the legislative fiscal bureau indicating all of the following:

a. The amounts of federal, state, and any other funds expended to implement the workforce initiative.

b. The efficiencies achieved in terms of administrative costs and other expenditures of the departments involved.

c. The location of each workforce center, staffing levels, and the number of clients served.

d. Any other information deemed necessary by the coordinator related to the progress and success in implementing the initiative.

4. For the workforce development initiative to be used to create model workforce development centers and provide an integrated management information system:

..... $ 464,000

Sec. 4. ADMINISTRATIVE CONTRIBUTION SURCHARGE FUND. There is appropriated from the administrative contribution surcharge fund of the state to the department of employment services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 6,250,000
..... FTEs 148.22

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, 1994, and ending June 30, 1995, in all communities in which workforce centers 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 workforce centers 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, 1994, and ending January 20, 1995. The division shall also establish a substantially similar schedule for such hearings for the period beginning January 20, 1995, and ending June 30, 1995. 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, 1995, and ending June 30, 1995.**

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. 5. EMPLOYMENT SECURITY CONTINGENCY FUND. There is appropriated from the special employment security contingency fund to the department of employment services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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. 6. DEPARTMENT OF INSPECTIONS AND APPEALS. There is appropriated from the general fund of the state to the department of inspections and appeals for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 484,920
..... FTEs 22.00

*Item veto; see message at end of the Act

2. AUDITS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 342,246
..... FTEs 10.00

3. APPEALS AND FAIR HEARINGS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 213,140
..... FTEs 24.00

4. INVESTIGATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 709,812
..... FTEs 35.00

5. HEALTH FACILITIES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,398,954
..... FTEs 97.00

6. INSPECTIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 571,275
..... FTEs 13.00

7. EMPLOYMENT APPEAL BOARD

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 45,247
..... FTEs 15.80

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:

..... $ 515,576
..... FTEs 10.00

The department of human services, in coordination with the state foster care review board and the department of inspections and appeals, shall submit an application for funding available pursuant to Title IV-E of the federal Social Security Act for claims for state foster care review board administrative review costs.

9. The department of inspections and appeals shall provide an accounting of all costs associated with negotiating agreements and compacts pursuant to section 10A.104, subsection 10, and all costs associated with monitoring such agreements and compacts. Information in the accounting shall include the dates and destinations of all travel related to the negotiations and monitoring, and all costs associated with the personnel involved, including salary, travel, and support costs.

Sec. 7. 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, 1994, and ending June 30, 1995, 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:

..... $ 1,728,494
..... 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, 1994, and ending on June 30, 1995, 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. 8. 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, 1994, and ending June 30, 1995, 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:

..... $ 446,522
..... FTEs 9.96

It is the intent of the general assembly that the racing and gaming commission 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. If more than three riverboats are operating during the fiscal year beginning July 1, 1994, and ending June 30, 1995, the commission may expend no more than $88,526 for no more than 2.00 FTEs for each additional riverboat in excess of three. The additional expense associated with such positions shall be paid from fees assessed by the commission as provided in chapter 99F, and deposited in the special account established pursuant to section 99F.4, subsection 2.

Notwithstanding section 8.39, funds shall not be transferred to the department of inspections and appeals which would be used for monitoring Indian gaming.

Sec. 9. 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, 1994, and ending June 30, 1995, 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:

..... $ 7,831,289
..... FTEs 143.80

2. For indigent court-appointed attorney fees for adults and juveniles, notwithstanding section 232.141 and chapter 815:

..... $ 10,029,000

Of the amounts appropriated in this section to the office of state public defender of the department of inspections and appeals, $100,000 shall be used to contract with a private vendor to provide automated claims processing of adult indigent defense claims.

a. Effective July 1, 1994, the state public defender shall establish a one-year pilot project to review and process juvenile indigent defense claims in two counties. The counties shall be in different judicial districts and shall be selected by the state public defender.

b. Notwithstanding section 232.141, subsection 3, the county clerks of court of the pilot counties shall submit all claims and supporting documentation received with the claims for juvenile indigent defense to the department of inspections and appeals for payment.

c. The state public defender shall review each claim and supporting documentation in accordance with section 13B.4, subsection 4, prior to payment.

d. Claims approved for payment shall be paid directly from the appropriation to the department of inspections and appeals for these purposes.

e. The juvenile justice county base amount as calculated under section 232.141, subsection 3, for the fiscal year beginning July 1, 1994, shall be forwarded by the pilot counties to the department of inspections and appeals no later than December 1, 1994. The department of inspections and appeals shall deposit these payments into the indigent defense fund to be used to pay juvenile indigent defense claims.

f. The state public defender shall provide a written report to the department of management and the legislative fiscal bureau by December 15, 1994, related to the progress and findings of this pilot project and recommendations for potential improvements and appropriate modifications in the juvenile indigent defense claims payment process.

Sec. 10. INDIGENT DEFENSE COSTS. The supreme court shall submit a written report for the preceding fiscal year no later than January 1 of each year indicating the amounts collected pursuant to section 815.9A, relating to recovery of indigent defense costs. The report shall include the total amount collected by all courts, as well as the amounts collected by each judicial district. The supreme court shall also submit a written report quarterly indicating the number of criminal and juvenile filings which occur in each judicial district for purposes of estimating indigent defense costs. A copy of each report shall be provided to the public defender, the department of management, and the legislative fiscal bureau.

Sec. 11. 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. 12. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, for the purposes designated:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 904,852

Sec. 13. 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, 1994, and ending June 30, 1995, 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:

..... $ 891,000
..... 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:

..... $ 210,378
..... 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:

..... $ 1,831,127
..... FTEs 33.50

The division of alcoholic beverages shall eliminate the position of administrative assistant 4 which is currently on loan to the department of management. The department of commerce shall not enter into any other employee loan agreements with any other department or division unless the department of commerce is fully reimbursed from the other department or division for the costs associated with such position.

4. BANKING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,278,751
..... 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.

The banking division may expend additional funds, not to exceed $86,500, for the purpose of purchasing laptop computers to be used by bank examination staff. The amount necessary to fund the purchase of such computers shall be collected from banks being regulated, and the collections shall be treated as repayment receipts as defined in section 8.2.

5. CREDIT UNION DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,033,772
..... 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:

..... $ 2,816,995
..... FTEs 88.50

*Item veto; see message at end of the Act

Of the amounts appropriated in this section to the insurance division, not more than $100,000 shall be used for the regulation of health insurance purchasing cooperatives.

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:

a. Notifies the department of management, legislative fiscal bureau, and the legislative fiscal committee of the need for such expenditures.

b. 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:

.....	$	4,771,826
.....	FTEs	79.00

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. 14. 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, 1994, and ending June 30, 1995, 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:

.....	$	720,769
.....	FTEs	12.68

Sec. 15. BUDGET PROPOSALS. The department of commerce, department of employment services, and department of inspections and appeals shall each designate a single division within the respective departments to submit a budget proposal in accordance with the zero-based budgeting method, and to track the appropriations made to the divisions in accordance with the program performance-based budgeting method for the fiscal year beginning July 1, 1995. The proposals shall be submitted by the designated divisions to the department of management and the legislative fiscal bureau no later than January 1, 1995.

Sec. 16. Section 11.5B, subsection 7, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

7. Iowa veterans home.

Sec. 17. Section 13B.4, subsections 3 and 4, Code Supplement 1993, are amended to read as follows:

3. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to indigent or partially indigent persons ~~where there is no local public defender available to provide such services~~.

*Item veto; see message at end of the Act

4. The state public defender is authorized to review any claim made for payment of indigent defense costs ~~and to request a hearing before the court granting a claim within thirty days of receipt of such claim~~ if the state public defender believes the claim to be excessive.

a. If the claim is from a noncontract attorney, the state public defender shall request a hearing before the court granting the claim as to the reasonableness of the claim within thirty days of receipt of such claim.

b. If the claim is from a contract attorney, the state public defender shall request a hearing before the appointing court as to the reasonableness of the claim within thirty days of receipt of such claim.

Sec. 18. Section 13B.9, subsection 5, Code 1993, is amended to read as follows:

5. If a conflict of interest arises or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender shall return the case to the court. The court ~~may~~ shall first appoint a contract attorney. ~~or a private noncontracting attorney, who has agreed to take the case,~~ Appointments by the court shall be on a rotational or equalization basis considering the experience of the attorney and the difficulty of the case.

Sec. 19. Section 13B.9, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. If a contract attorney is not available, or if a conflict of interest or overload prevents a contract attorney from handling a case, the court shall appoint a private noncontracting attorney, who has agreed to take the case. The appointment shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.

Sec. 20. 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~~ appointed pursuant to section 534.401.

Sec. 21. Section 534.401, subsection 1, Code 1993, is amended to read as follows:

1. ~~DIVISION~~ SUPERINTENDENT OF SAVINGS AND LOAN ASSOCIATIONS ~~CREATED — SUPERINTENDENT. A savings and loan association division is created within the department of commerce.~~ The superintendent of savings and loan associations is the ~~chief administrative officer of the division~~ administrator of professional licensing and regulation appointed pursuant to section 546.10, subsection 2, or an individual appointed by the administrator as provided in section 546.10, subsection 7.

Sec. 22. Section 546.10, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The administrator of professional licensing and regulation is the superintendent of savings and loan associations. The administrator may appoint an individual to act as the superintendent who shall serve as the superintendent at the pleasure of the administrator.

Sec. 23. Section 815.7, Code 1993, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district court, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. Such attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so, the attorney's fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 24. Section 815.10, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A contract attorney appointed by the court under this section and section 13B.4 shall apply to the state public defender for compensation and for reimbursement of costs incurred in accordance with the contract. The amount of compensation due shall be determined in accordance with the contract.

Sec. 25. Section 815.11, Code 1993, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under section 232.141, subsection 3, paragraph "c", sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, 815.10, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the department of inspections and appeals for those purposes.

Sec. 26. 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.

Approved April 13, 1994, 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 4, subsections 1 and 2 in their entirety; Section 13, subsection 3, unnumbered and unlettered paragraph 2 in its entirety; and Section 15 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the President of the Senate this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. President:

I hereby transmit Senate File 2218, an Act making appropriations and certain related statutory changes related to regulatory bodies of state government, including the auditor of state, the Iowa ethics and campaign disclosure board, 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 2218 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

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 the agency's needs.

I am unable to approve the item designated as Section 4, susbsection 1, in its entirety. This provision would require the Department of Employment Services to maintain all workforce centers in operation as of July 1, 1993. The department must retain the flexibility to provide services where they are most needed and in the most cost effective manner.

I am unable to approve the item designated as Section 4, susbsection 2, in its entirety. This provision specifies the number, location and schedule of hearings for contested workers' compensation cases which the Industrial Services Division would be required to conduct through June 30, 1995. The division must retain flexibility to conduct hearings to meet the needs of employers and injured workers.

I am unable to approve the item designated as Section 13, subsection 3, unnumbered and unlettered paragraph 2, in its entirety. This provision relates to the elimination of an employee position within the Division of Alcoholic Beverages and the loaning of employees by the Department of Commerce to other agencies. Decisions concerning personnel in the Department of Commerce are the prerogative of the executive branch. The director of the department must retain the authority to assign employees to perform tasks as needed.

I am unable to approve the item designated as Section 15, in its entirety. This provision would require the Departments of Commerce, Employment Services and Inspections and Appeals to prepare and monitor budget proposals for divisions within the agencies under zero-based and performance-based budgeting methods. Agencies within the executive branch should utilize only one budgeting method to provide consistency and uniformity in budget preparation and tracking across state government.

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 2218 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1188

APPROPRIATIONS — STATE DEPARTMENTS AND AGENCIES
S.F. 2229

AN ACT relating to and making appropriations to state departments, agencies, funds, and certain other entities, 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, 1994, and ending June 30, 1995, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. COMMISSION ON UNIFORM STATE LAWS

For support of the commission and expenses of the members:

..... $ 19,749

2. NATIONAL CONFERENCE OF STATE LEGISLATURES

For support of the membership assessment:

..... $ 85,531

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, 1994, and ending June 30, 1995, 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:

..... $ 466,740
..... FTEs 9.35

2. COMMUNICATIONS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 170,151
..... FTEs 2.77

3. INFORMATION SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,612,366
..... FTEs 132.50

4. PROPERTY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,776,740
..... FTEs 114.00

5. PRINTING AND MAIL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 830,078
..... 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.

Savings achieved in providing telephone 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 not later than August 31, 1995, on the projects undertaken to the chairpersons and the ranking members of the joint appropriations subcommittee on administration and to the legislative fiscal bureau. The report shall include a listing of the projects and efficiencies undertaken during the fiscal year, 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, 1994, and ending June 30, 1995, 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:

..... $ 590,934

3. UTILITY COSTS

For payment of utility costs and for not more than the following full-time equivalent positions:

..... $ 1,993,031
..... FTEs 1.00

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, 1995, 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 not later than

August 31, 1995, 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 report 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 general fund of the state to the department of general services for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

TERRACE HILL OPERATIONS

For salaries, support, maintenance, and miscellaneous purposes necessary for the operation of Terrace Hill and for not more than the following full-time equivalent positions:

.....	$	165,575
.....	FTEs	4.00

Sec. 6. There is appropriated from the designated revolving funds to the department of general services 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. 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:

.....	$	888,189
.....	FTEs	26.05

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, 1994, and ending June 30, 1995, 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:

.....	$	716,410
.....	FTEs	16.05

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, 1994, and ending June 30, 1995, 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:

.....	$	607,972
.....	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, 1994, and ending June 30, 1995, which are legally payable from this fund.

The vehicle dispatcher shall report, not later than February 15, 1995, 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 not later than February 15, 1995, a comparison of the performance of vehicles burning an 85 percent ethanol mixture and those burning a 10 percent ethanol mixture. The report shall include, but is not limited to, average mileage, vehicle life, and problems encountered.

Sec. 7. 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, 1994, and ending June 30, 1995, 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:

..... $ 1,038,673
..... 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:

..... $ 49,858
..... FTEs 2.50

4. For the payment of expenses of ad hoc committees, councils, and task forces appointed by the governor to research and analyze a particular subject area relevant to the problems and responsibilities of state and local government, including the employment of professional, technical, and administrative staff and the payment of per diem and actual expenses of committee, council, or task force members as specified pursuant to section 7E.6:

..... $ 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.

5. For salaries, support, maintenance, and miscellaneous purposes for the office of administrative rules coordinator, and for not more than the following full-time equivalent positions:

..... $ 95,808
..... FTEs 2.00

6. For payment of Iowa's membership in the national governors' conference:

..... $ 74,435

Notwithstanding section 8.33, all moneys appropriated pursuant to subsections 1 through 5 which remain unencumbered and unobligated on June 30, 1995, shall not revert to the general fund of the state and may be expended to upgrade, replace, or improve computer equipment used in the offices. The office of the governor shall report to the legislative fiscal committee not later than December 1, 1995, the items and cost of the computer equipment which is upgraded, replaced, or improved as provided in this paragraph.

Sec. 8. 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, 1994, and ending June 30, 1995, 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:

..... $ 224,252
..... 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. 9. 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, 1994, and ending June 30, 1995, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,661,118
..... FTEs 27.00

2. LAW ENFORCEMENT TRAINING REIMBURSEMENTS

For reimbursement to local law enforcement agencies for the training of officers who resign pursuant to section 384.15, subsection 7:

..... $ 47,500

Sec. 10. There is appropriated from the road use tax fund to the department of management for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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 1994-1995 which will be due by September 1, 1995.

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.

Notwithstanding section 8.33, all moneys appropriated to the department of management pursuant to this section which remain unencumbered and unobligated on June 30, 1995, shall not revert to the general fund of the state and may be expended to upgrade, replace, or improve computer equipment used in the department. The department of management shall report to the legislative fiscal committee not later than December 1, 1995, the items and cost of the computer equipment which is upgraded, replaced, or improved as provided in this paragraph.

Sec. 11. There is appropriated from the general fund of the state to the department of management for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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. 12. There is appropriated from the general fund of the state to the department of personnel 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 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:

..... $ 1,313,743
..... FTEs 23.00

*Item veto; see message at end of the Act

2. FIELD SERVICES

For salaries for personnel services and for not more than the following full-time equivalent positions:

..... $ 728,791

..... FTEs 23.00

3. PROGRAM MANAGEMENT

a. For salaries for employment and training, and for not more than the following full-time equivalent positions:

..... $ 686,989

..... 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:

..... $ 855,398

..... 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 semi-annually 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. 13. IPERS. There is appropriated from the Iowa public employees' retirement system fund to the department of personnel for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, and other operational purposes to pay the costs of the Iowa public employees' retirement system:

..... $ 3,483,573

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, 1995, 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. 14. There is appropriated from the primary road fund to the department of personnel for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 317,284

Sec. 15. There is appropriated from the road use tax fund to the department of personnel for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 51,651

Sec. 16. There is appropriated from the general fund of the state to the department of revenue and finance for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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 583.43

1. ADMINISTRATION

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,117,226

2. AUDIT AND COMPLIANCE

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 10,158,045

3. FINANCIAL MANAGEMENT

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 6,941,910

4. INFORMATION AND MANAGEMENT SYSTEMS

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 3,466,716

5. LOCAL GOVERNMENT SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 1,195,405

6. TECHNICAL SERVICES

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 2,385,295

7. COLLECTION COSTS AND FEES

For payment of collection costs and fees pursuant to section 422.26:

..... $ 45,000

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 not later than August 31, 1995, 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.

d. The director of revenue and finance shall report annually to the chairpersons and ranking members of the joint appropriations subcommittee on administration and the legislative fiscal bureau on the implementation and financial status of the integrated revenue information system. The report shall include any changes from the scheduled progress including expenditures or estimated revenue.

e. The director of revenue and finance shall prepare and issue a state appraisal manual and the revisions to the state appraisal manual as provided in section 421.17, subsection 18, without cost to a city or county.

f. The director of revenue and finance shall report not later than August 31, 1995, to the legislative fiscal committee, the legislative fiscal bureau, and the chairpersons and ranking members of the joint appropriations subcommittees on administration concerning technological enhancements made by the department during the preceding fiscal year.

Sec. 17. There is appropriated from the lottery fund to the department of revenue and finance for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

.....	$	7,336,763
.....	FTEs	120.00

Sec. 18. 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, 1994, and ending June 30, 1995, 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:

.....	$	982,348

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, 1994, and ending June 30, 1995, 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, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	468,928
.....	FTEs	9.00

2. BUSINESS SERVICES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,531,886
.....	FTEs	33.00

Notwithstanding section 8.33, all moneys appropriated to the office of secretary of state pursuant to this section which remain unencumbered and unobligated on June 30, 1995, shall not revert to the general fund of the state and may be expended to upgrade, replace, or improve computer equipment used in the office. The office of secretary of state shall report to the legislative fiscal committee not later than December 1, 1995, the items and cost of the computer equipment which is upgraded, replaced, or improved as provided in this paragraph.

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, 1994, and ending June 30, 1995, 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:

.....	$	230,460
.....	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, 1994, and ending June 30, 1995, 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:

..... $ 841,763
..... FTEs 28.80

The office of treasurer of state shall supply clerical and secretarial support for the executive council.

Notwithstanding section 8.33, all moneys appropriated to the office of treasurer of state pursuant to the section which remain unencumbered and unobligated on June 30, 1995, shall not revert to the general fund of the state and may be expended to upgrade, replace, or improve computer equipment used in the office. The office of treasurer of state shall report to the legislative fiscal committee not later than December 1, 1995, the items and cost of the computer equipment which is upgraded, replaced, or improved as provided in this paragraph.

Sec. 22. DEPARTMENT OF VETERANS AFFAIRS. There is appropriated from the general fund of the state to the department of veterans affairs for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 50,000
..... FTEs 1.0

The moneys appropriated in this section shall be used to employ a person in an executive 1 position to serve as the chief administrative officer to the director of the department of veterans affairs.

Sec. 23. 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, 1994, 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, 1994.

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, 1994, and ending June 30, 1995, 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:

..... $ 5,000

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, 1994, and ending June 30, 1995, 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.

Sec. 27. TRANSFER OF CODE CHAPTER. The Code editor shall transfer the provisions of chapter 644 relating to lost property from Title XV of the Code which relates to the judicial branch and judicial procedures to Title XIV of the Code which relates to property. The Code editor shall renumber chapter 644 as chapter 556F in the 1995 Code of Iowa unless another number is more appropriate.

Sec. 28. 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. 29. STATE COMMUNICATIONS NETWORK – REDUCTION OF TRAVEL AND RELATED EXPENSES.

The offices of the governor and lieutenant governor, the office of secretary of state, the office of treasurer of state, the office of drug enforcement and abuse coordinator, the department of general services, the department of management, the department of revenue and finance, the department of personnel shall use the services of the state communications network as much as possible for interagency communication, meetings, and conferences to reduce travel and related expenses for the respective offices or departments.

Sec. 30. LEASE-PURCHASE – BUDGET SUBMISSION. This section applies to each state agency receiving an appropriation in this Act. The departmental estimate required under section 8.23 for the fiscal period beginning July 1, 1995, which includes the state agency, shall provide an itemized list indicating the nature and amount of each lease-purchase contract payment included in the estimate for proposed contracts which have not been reported by the state agency to the legislative fiscal committee of the legislative council pursuant to section 8.46 prior to the submission of the estimate. The governor shall include in the governor's budget for the fiscal year beginning July 1, 1995, a listing indicating the nature and amount of each lease-purchase contract which was itemized in a departmental estimate in accordance with this section and is included in the governor's budget. A state agency receiving an appropriation in this Act shall not enter into a lease-purchase contract during the fiscal year beginning July 1, 1995, unless the contract was itemized in a departmental estimate and included in the governor's budget in accordance with this section.*

Sec. 31. Section 12.38, Code 1993, is amended to read as follows:

12.38 REPORTS.

By February 1 of each year, the treasurer of state shall report on the linked investments for tomorrow program, the rural small business transfer linked investment loan program, the targeted small business linked investments program, and the main street linked investments loan program for the preceding calendar year to the governor, the speaker of the house of representatives, and the president of the senate. The speaker of the house shall transmit copies of this report to the chairs of the standing committees in the house which customarily consider legislation regarding agriculture and commerce, and the president of the senate shall transmit copies of this report to the chairs of the standing committees in the senate which customarily consider legislation regarding agriculture and commerce. The report shall set forth

*Item veto; see message at end of the Act

the linked investments made by the treasurer of state under the program during the year, the total amount deposited, the number of deposits, and an estimate of foregone interest, and shall include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based and the eligible borrowers to which the loans were made.

Sec. 32. Section 18.12, subsection 8, Code 1993, is amended to read as follows:

8. Dispose of all personal property of the state under the director's control when it becomes unnecessary or unfit for further use by the state. If the director concludes that the property has little value, the director may dispose of the personal property by means other than by sale. Proceeds from the sale of personal property shall be deposited in the state general fund.

Sec. 33. Section 18.115, subsection 4, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

The state vehicle dispatcher shall purchase all ~~new~~ motor vehicles for all branches of the state government, except the state department of transportation, institutions under the control of the state board of regents, the department for the blind, and any other agencies exempted by law. Before purchasing any new motor vehicle the dispatcher shall make requests for public bids by advertisement and shall purchase the vehicles from the lowest responsible bidder for the type and make of motor vehicle designated. The vehicle dispatcher may purchase used or preowned vehicles at governmental or dealer auctions if the purchase is determined to be in the best interests of the state.

Sec. 34. Section 18.115, subsection 6, Code Supplement 1993, is amended to read as follows:

6. All used motor vehicles turned in to the state vehicle dispatcher shall be disposed of by public auction, and the sales shall be advertised in a newspaper of general circulation one week in advance of sale, and the receipts from the sale shall be deposited in the depreciation fund to the credit of that department or agency turning in the vehicle; except that, in the case of a used motor vehicle of special design, the state vehicle dispatcher may, with the approval of the ~~executive council~~ director, instead of selling it at public auction, authorize the motor vehicle to be traded for another vehicle of similar design. If a vehicle sustains damage and the cost to repair exceeds the wholesale value of the vehicle, the state vehicle dispatcher may dispose of the vehicle by obtaining two or more written salvage bids and the vehicle shall be sold to the highest responsible bidder.

Sec. 35. Section 18.117, unnumbered paragraph 1, Code 1993, is amended to read as follows:

A state officer or employee shall not use a state-owned motor vehicle for personal private use, nor shall the officer or employee be compensated for driving a privately owned motor vehicle unless it is done on state business with the approval of the state vehicle dispatcher, and in that case the officer or employee shall receive an amount to be determined by the state which may be the maximum allowable under the federal internal revenue service rules per mile, notwithstanding established mileage requirements or depreciation allowances. However, the director may authorize per mile reimbursement rates in excess of the rate allowed under the federal internal revenue service rules for state business use of substantially modified or specially equipped privately owned vehicles required by persons with disabilities. A statutory provision stipulating necessary mileage, travel, or actual expenses reimbursement to a state officer falls under the mileage reimbursement limitation provided in this section unless specifically provided otherwise. Any peace officer employed by the state as defined in section 801.4 who is required to use a private vehicle in the performance of official duties shall receive reimbursement for mileage expense at the rate specified in this section. However, the state vehicle dispatcher may delegate authority to officials of the state, and department heads, for the use of private vehicles on state business up to a yearly mileage figure established by the director of general services. If a state motor vehicle has been assigned to a state officer or employee, the officer or employee shall not collect mileage for the use of a privately owned vehicle unless the state vehicle assigned is not usable.

Sec. 36. NEW SECTION. 70A.17A PAYROLL DEDUCTION FOR DUES.

1. The state officer in charge of the payroll system shall deduct from the salary or wages of a state officer or employee an amount specified by the officer or employee for payment to a professional or trade organization for dues or membership fees if:

a. The professional or trade organization consents to payment of dues in this manner.

b. The employee requests in writing that payment of dues or membership fees be made in this manner.

c. The pay period during which the deduction is made, the frequency, and the amount of the deduction are compatible with the payroll system.

d. The following number of state officers or employees request the deduction for the same professional or trade organization:

(1) One hundred or more state officers or employees employed outside the jurisdiction of the state board of regents, or employed at Iowa state university of science and technology or the state university of Iowa.

(2) Fifty or more state officers or employees employed at the university of northern Iowa.

(3) Twenty-five or more state officers or employees employed at the Iowa school for the deaf or at the Iowa braille and sight saving school.

2. The deduction may be made even though the compensation paid to an officer or employee is reduced to an amount below the minimum prescribed by law. Payment to an officer or employee of compensation less the deduction shall constitute a full discharge of claims and demands for services rendered by the officer or employee during the period covered by the payment. The request for the deduction may be withdrawn at any time by filing a written notification of withdrawal with the state officer in charge of the payroll system.

3. This section shall not affect a payroll deduction elected by a state employee pursuant to section 70A.19.

Sec. 37. Section 556.17, subsections 1 and 2, Code 1993, are amended to read as follows:

1. All abandoned property other than money delivered to the state treasurer under this chapter ~~shall within~~ which remains unclaimed one year after the delivery ~~be sold by~~ to the treasurer may be sold to the highest bidder at public sale in ~~whatever~~ any city in the state that affords in the treasurer's judgment the most favorable market for the property involved. The state treasurer may decline the highest bid and reoffer the property for sale if the treasurer considers the price bid insufficient. The treasurer need not offer any property for sale if, in the treasurer's opinion, the probable cost of sale exceeds the value of the property. The treasurer may order destruction of the property when the treasurer has determined that the probable cost of offering the property for sale exceeds the value of the property.

2. Any sale held or destruction ordered under this section shall be preceded by a single publication of notice ~~thereof~~ of the sale or destruction order at least three weeks in advance of sale or destruction in an English language newspaper of general circulation in the county where the property is to be sold or, for the destruction, in the county from which the property was received.

Sec. 38. Section 556.18, subsection 1, Code Supplement 1993, is amended to read as follows:

1. All funds received under this chapter, including the proceeds from the sale of abandoned property under section 556.17, shall be deposited ~~monthly~~ quarterly 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~~ a sufficient 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 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.

Approved April 13, 1994, except the items which I hereby disapprove and which are designated as Section 10, unnumbered and unlettered paragraph 4 in its entirety; and Section 30 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the President of the Senate this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. President:

I hereby transmit Senate File 2229, an Act relating to and making appropriations to state departments, agencies, funds, and certain other entities, and providing for other properly related matters.

Senate File 2229 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 10, 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 best meet its management needs.

I am unable to approve the item designated as Section 30, in its entirety. This provision restricts executive branch agencies in their ability to enter into lease-purchase agreements. While additional review and oversight of lease-purchase contracting by state agencies may be worthwhile, sufficient flexibility must be provided to allow agencies to respond to situations which cannot be planned, e.g. emergencies and new federal requirements.

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 2229 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1189

APPROPRIATIONS — TRANSPORTATION AND SAFETY

S.F. 2217

AN ACT relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation and law enforcement, and including allocation and use of moneys from the use tax, road use tax fund, and primary road fund, and relating to the driver's license pilot project.

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, 1994, and ending June 30, 1995, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, including jailer training and technical assistance, and for not more than the following full-time equivalent positions:

.....	$	951,650
.....	FTEs	24.00

2. For salaries, support, maintenance, and miscellaneous purposes to provide statewide coordination of the drug abuse resistance education (D.A.R.E.) program:

..... $ 15,000

DEPARTMENT OF PUBLIC DEFENSE

Sec. 2. There is appropriated from the general fund of the state to the department of public defense for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 3,718,896
..... FTEs 210.26

If there is a surplus in the general fund of the state for the fiscal year ending June 30, 1995, within 60 days after the closing of the fiscal year, the military division may incur up to an additional $500,000 in expenditures from the surplus prior to transfer of the surplus pursuant to section 8.57.

2. EMERGENCY MANAGEMENT DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 486,208
..... FTEs 13.83

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, 1994, and ending June 30, 1995, 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:

..... $ 2,148,096
..... 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:

..... $ 7,046,332
..... FTEs 141.00

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:

..... $ 2,358,608
..... FTEs 38.00

b. Undercover purchases:

..... $ 139,202

4. For the state 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:

..... $ 1,363,483
..... FTEs 30.00

The state fire marshal may fill one additional full-time equivalent position, in addition to the 30 FTEs authorized in this subsection, if the state fire marshal's office is required to implement the underground storage tank installers and inspectors licensing program pursuant to House File 2177, if enacted.*

The legislative fiscal bureau shall conduct a program evaluation of the state fire marshal's office to determine the appropriate funding and staffing levels necessary to implement the statutory duties of the office and to evaluate the feasibility of establishing the state fire marshal's office as an entity of state government separate from the department of public safety. The evaluation shall be completed and reported to the general assembly by January 15, 1995.

5. For the capitol security division, and for not more than the following full-time equivalent positions:

.....	$	1,106,779
.....	FTEs	27.00

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, 1994, and ending June 30, 1995, 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:

.....	$	32,211,089
.....	FTEs	552.50

a. It is the intent of the general assembly, that so much as is necessary of the appropriation in this subsection, shall be used to support federal Highway Safety Act programs.

b. 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, prior to turning over the automobiles 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.

c. An employee of the department of public safety who retires after the effective date of this Act but prior to June 30, 1995, 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. The provisions of this paragraph shall not operate to reduce any retirement benefits an employee may have earned under other collective bargaining agreements or retirement programs.

d. The department of public safety shall allow a peace officer to stay at lodging facilities of the officer's choice while in travel status unless operational requirements dictate that the officer should stay at a facility approved by the department. Cost savings alone shall not be considered an operational requirement.

e. It is the intent of the general assembly that the division shall focus efforts on recruiting additional women and minority members of the state patrol.

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

*House File 2177 not enacted

**Item veto; see message at end of the Act

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

4. a. For replacement of the radio communications tower in Cedar Rapids:

..... $ 95,000

b. For replacement of Iowa patrol post number 7 located in Fort Dodge:

..... $ 1,066,500

It is the intent of the general assembly that ownership of the property upon which Iowa patrol post number 7 was formerly located, shall be transferred to Iowa central community college.

c. For replacement of Iowa patrol post number 12 located in Davenport:

..... $ 1,593,000

The money that is raised from the sale of Iowa patrol post number 12, located in Davenport, shall be deposited in the road use tax fund.

c. For improvements at various locations throughout the state to comply with the requirements of the federal Americans with Disabilities Act:

..... $ 300,000

The provisions of section 8.33 do not apply to the funds appropriated in subsection 4, which shall remain available for expenditure for the purposes designated until June 30, 1996. Unencumbered or unobligated funds remaining on June 30, 1996, from funds appropriated in subsection 4, shall revert to the fund from which appropriated on August 30, 1996.

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, 1994, and ending June 30, 1995, 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):

..... $ 201,500

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:

..... $ 299,369

..... FTEs 5.00

The appropriation made in this subsection is reduced by any amount appropriated by House File 2179, if enacted by the Seventy-fifth General Assembly, for the purposes described by this subsection.

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, 1994, and ending June 30, 1995, 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:

..... $ 670,000

2. For salaries, support, maintenance, and for miscellaneous purposes:

a. Administrative services:

..... $ 4,294,780

b. General counsel:

..... $ 184,660

c. Planning and research:
..... $ 545,450
d. Aeronautics and public transit:
..... $ 265,000
e. Motor vehicles:
..... $ 21,295,920
The motor vehicle division of the department shall conduct all salvage theft examinations required under section 321.52.
f. Rail and water:
..... $ 649,600
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 to the auditor of state for audit expenses as provided in section 11.5B:
..... $ 32,480
8. a. For the grading, paving, and lighting of the parking and inspection areas at the Brandon scale site:
..... $ 435,000
b. For the replacement of the scale in Story County:
..... $ 210,000
The provisions of section 8.33 do not apply to the funds appropriated in subsection 8, which shall remain available for expenditure for the purposes designated until June 30, 1998. Unencumbered or unobligated funds remaining on June 30, 1998, from funds appropriated in subsection 8, shall revert to the fund from which appropriated on August 30, 1998.

Sec. 7. There is appropriated from the primary road fund to the state department of transportation 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. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
a. Administrative services:
..... $ 26,382,220
..... FTEs 321.50
b. General counsel:
..... $ 1,134,340
..... FTEs 7.00
c. Planning and research:
..... $ 6,673,550
..... FTEs 158.00
d. Aeronautics and public transit:
..... $ 265,000
..... FTEs 17.00
e. Highways:
..... $ 149,045,583
..... FTEs 2,859.00

f. Motor vehicles:

..... $ 822,080

..... FTEs 549.00

g. Rail and water:

..... $ 278,400

..... 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:

..... $ 3,120,000

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 underground storage tank replacement and cleanup:

..... $ 1,000,000

7. For payment to the general fund for indirect cost recoveries:

..... $ 880,000

8. For reimbursement to the auditor of state for audit expenses as provided in section 11.5B:

..... $ 199,520

9. a. For completion of the design and installation of the fire alarm system at the Ames complex (Phase II):

..... $ 500,000

b. For improvements at various locations throughout the state to comply with the requirements of the federal Americans with Disabilities Act (Phase II):

..... $ 500,000

c. For improvements to upgrade the handling of waste water at various field facilities throughout the state:

..... $ 750,000

d. For completion of replacement of the east parking lot at the Ames complex:

..... $ 550,000

e. For repair or replacement of the concrete decking at the rear entry of the administration building at the Ames complex:

..... $ 220,000

f. For the purchase of land adjacent to the Akron garage:

..... $ 30,000

The provisions of section 8.33 do not apply to the funds appropriated in subsection 9 which shall remain available for expenditure for the purposes designated until June 30, 1998. Unencumbered or unobligated funds remaining on June 30, 1998, from funds appropriated in subsection 9 shall revert to the fund from which appropriated on August 30, 1998.

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, 1994, and ending June 30, 1995, 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; to provide up to $70,000 in funding, with local authorities providing matching funds, for a study to determine the potential costs and benefits of the development of rail passenger service between

Cedar Rapids and Iowa City and to provide up to $15,000 in funding, with local authorities providing matching funds, for the construction of demonstration trackage for the operation of historic railroad equipment or the rehabilitation or restoration of historic railroad equipment:
..... $ 2,110,553

b. For airport engineering studies and improvement projects as provided in chapter 328:
..... $ 2,262,000

2. For aeronautics and public transit, for salaries, support, maintenance, and miscellaneous purposes:
..... $ 393,000

Sec. 9. There is appropriated from the road use tax fund to the motor vehicle division of the state department of transportation 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:

To be used for costs associated with the driver's license pilot program implemented in accordance with 1993 Iowa Acts, chapter 169, section 14:
..... $ 67,500

Of the moneys appropriated in this section, the division shall allocate moneys to the following counties:

1. Adams	$	9,000
2. Cass	$	11,000
3. Fremont	$	9,000
4. Mills	$	11,000
5. Montgomery	$	11,000
6. Page	$	16,500

Sec. 10. Notwithstanding section 8.33 and the reversion provisions in 1991 Iowa Acts, chapter 268, section 507, the unencumbered or unobligated funds remaining on June 30, 1994, from the appropriation for grading and resurfacing the east parking lot at the Ames complex shall not revert but shall be available for expenditure for the same purposes until June 30, 1998, and any unencumbered or unobligated funds remaining on June 30, 1998, shall revert to the fund from which appropriated on August 30, 1998.

Sec. 11. DRIVER'S LICENSE PILOT PROJECT. The driver's license pilot project implemented in accordance with 1993 Iowa Acts, chapter 169, section 14, is extended until June 30, 1995.

Sec. 12. LAW ENFORCEMENT ACADEMY STUDY. The director of the Iowa law enforcement academy shall study the feasibility of allowing persons to enroll in the academy basic training course prior to employment by a law enforcement agency. The director shall seek input from the Iowa state sheriffs and deputies association, the Iowa state police association, community colleges and higher education institutions offering police science courses, the Iowa state association of counties, and the league of Iowa municipalities. The director shall report the results of the study to the joint appropriations subcommittee on transportation and safety by January 15, 1995.

**Sec. 13.* *LEASE-PURCHASE — BUDGET SUBMISSION. This section applies to each state agency receiving an appropriation in this Act. The departmental estimate required under section 8.23 for the fiscal period beginning July 1, 1995, which includes the state agency, shall provide an itemized list indicating the nature and amount of each lease-purchase contract payment included in the estimate for proposed contracts which have not been reported by the state agency to the legislative fiscal committee of the legislative council pursuant to section 8.46 prior to the submission of the estimate. The governor shall include in the governor's budget for the fiscal year beginning July 1, 1995, a listing indicating the nature and amount of each lease-purchase contract which was itemized in a departmental estimate in accordance with*

*Item veto; see message at end of the Act

*this section and is included in the governor's budget. A state agency receiving an appropriation in this Act shall not enter into a lease-purchase contract during the fiscal year beginning July 1, 1995, unless the contract was itemized in a departmental estimate and included in the governor's budget in accordance with this section.**

Sec. 14. The legislative council is requested to authorize an interim study committee to study the issue of transferring the motor vehicle enforcement officers from the state department of transportation to the department of public safety, as well as the issue of whether or not those motor vehicle enforcement officers should have all the powers and duties of other peace officers defined in section 801.4.

Sec. 15. SALE OF REAL PROPERTY — PREFERENCES. The state department of transportation shall include veterans organizations chartered by the congress of the United States in any preference granted to a state agency, city, county, school district, or other public authority, for the sale of real property by the state department of transportation prior to July 1, 1995.

Sec. 16. Section 35C.1, subsection 2, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of personnel shall inform the agency to which the person is seeking employment of the person's military service as specified in subsection 1.

Sec. 17. Section 80B.11B, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The Iowa law enforcement academy may also charge an attendance fee as determined by the director of the academy and approved by the council for courses, schools, and seminars, other than the basic training course specified in subsection 2. Funds generated from attendance fees are appropriated to and shall be used at the direction of the academy to fulfill its responsibilities under this chapter.

Approved April 19, 1994, except the items which I hereby disapprove and which are designated as Section 4, subsection 1, paragraph d in its entirety; and Section 13 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the President of the Senate this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Mr. President:

I hereby transmit Senate File 2217, an Act relating to and making appropriations to state agencies whose responsibilities relate to public defense, public safety, transportation and law enforcement, and including allocation and use of moneys from the use tax, road use tax fund, and primary road fund, and relating to the driver's license pilot project.

Senate File 2217 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 4, subsection 1, paragraph d, in its entirety. This provision limits the authority of the Department of Public Safety to make decisions regarding lodging of peace officers in training. The department should retain full authority to make such decisions, particularly when it results in substantial cost savings to Iowa taxpayers.

I am unable to approve the item designated as Section 13, in its entirety. This provision restricts executive branch agencies in their ability to enter into lease-purchase agreements. While additional review and oversight of lease-purchase contracting by state agencies may be worthwhile, sufficient flexibility must be provided to allow agencies to respond to situations which cannot be planned, e.g. emergencies and new federal requirements.

*Item veto; see message at end of the Act

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 2217 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1190

APPROPRIATION FOR IOWA COMMUNICATIONS NETWORK
S.F. 2329

AN ACT making an appropriation for the Iowa communications network fund for the fiscal year beginning July 1, 1994.

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

Section 1. STATE COMMUNICATIONS NETWORK. There is appropriated from the general fund of the state to the Iowa communications network fund created in section 18.137 for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary:

..... $ 5,600,000

Upon the appropriation of the funds in this section to the Iowa communications network fund, the Iowa telecommunications and technology commission shall immediately transfer $5,600,000 of the appropriated amount to a separate fund established in the office of the treasurer of state, to be used solely for making a payment on the principal amount of the certificates of participation issued for the Iowa communications network which is scheduled for July 1, 1995. The commission shall certify to the treasurer of state when such payment is due, and upon receipt of the certification the treasurer shall make the payment. The commission shall pay any additional amount due from funds deposited in the Iowa communications network fund.

Approved May 2, 1994

CHAPTER 1191

COMPENSATION FOR PUBLIC EMPLOYEES
H.F. 2429

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.

1. The salary rates specified in subsections 2 and 3 are effective for the pay periods beginning July 1, 1994, and ending December 29, 1994, and for the pay period beginning December 30, 1994, and for subsequent pay periods until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the judicial department from the salary adjustment fund or if the appropriation is not sufficient, from the funds appropriated to the judicial department pursuant to any Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the judicial positions indicated during the pay periods beginning July 1, 1994, and ending December 29, 1994:

a. Chief justice of the supreme court:
..... $ 95,600
b. Each justice of the supreme court:
..... $ 92,100
c. Chief judge of the court of appeals:
..... $ 92,000
d. Each associate judge of the court of appeals:
..... $ 88,500
e. Each chief judge of a judicial district:
..... $ 87,600
f. Each district judge except the chief judge of a judicial district:
..... $ 84,200
g. Each district associate judge:
..... $ 73,300
h. Each judicial magistrate:
..... $ 18,500

3. The following annual salary rates shall be paid to the persons holding the judicial positions indicated for the pay period beginning December 30, 1994, and for subsequent pay periods until otherwise provided by the general assembly:

a. Chief justice of the supreme court:
..... $ 97,500
b. Each justice of the supreme court:
..... $ 93,900
c. Chief judge of the court of appeals:
..... $ 93,800
d. Each associate judge of the court of appeals:
..... $ 90,300
e. Each chief judge of a judicial district:
..... $ 89,400
f. Each district judge except the chief judge of a judicial district:
..... $ 85,900
g. Each district associate judge:
..... $ 74,800
h. Each judicial magistrate:
..... $ 18,900

Sec. 2. SALARY RATE LIMITS. Persons receiving the salary rates established under section 1 of this Act shall not receive any additional salary adjustments provided by this Act.

Sec. 3. 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 4 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 4 of this Act.

The governor, in establishing salaries as provided in section 4 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 4 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. 4. 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, 1994, and for subsequent fiscal years until otherwise provided by the general assembly. The governor or other person designated in section 3 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, 1994, and as otherwise provided in this section:

SALARY RANGES	Minimum	Maximum
a. Range 1	$ 8,100	$24,500
b. Range 2	$29,600	$49,100
c. Range 3	$40,600	$57,400
d. Range 4	$48,800	$65,600
e. Range 5	$57,400	$73,900

2. The following are range 1 positions: There are no range 1 positions as of the fiscal year beginning July 1, 1994.

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, 1994, and as otherwise provided in this section:

SALARY RANGES	Minimum	Maximum
a. Range 6	$44,400	$ 59,500
b. Range 7	$60,700	$ 74,500
c. Range 8	$65,000	$ 86,500
d. Range 9	$72,600	$102,900

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 ethics and campaign disclosure board.

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 the 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. 5. PUBLIC EMPLOYMENT RELATIONS BOARD.

1. The salary rates specified in this section are effective for the pay period beginning December 30, 1994, and for subsequent pay periods until otherwise provided by the general assembly. The salaries provided for in this section shall be paid from funds appropriated to the public employment relations board from the salary adjustment fund, or if the appropriation is not sufficient from funds appropriated to the public employment relations board pursuant to any other Act of the general assembly.

2. The following annual salary rates shall be paid to the persons holding the positions indicated:

a. Chairperson of the public employment relations board:
..... $ 57,900

b. Two members of the public employment relations board:
..... $ 53,800

Sec. 6. PAY RATES AND RANGES – EFFECTIVE DATES. The annual salary rates and ranges provided in section 4 of this Act become effective for the fiscal year beginning July 1, 1994, with the pay period beginning July 1, 1994.

Sec. 7. COLLECTIVE BARGAINING AGREEMENTS FUNDED – 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, including the state board of regents, for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, $31,700,000 or so much thereof as may be necessary, to fund the following annual pay adjustments, expense reimbursements, and related benefits:

1. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the blue collar bargaining unit.

2. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the public safety bargaining unit.

3. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the security bargaining unit.

4. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the technical bargaining unit.

5. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the professional fiscal and staff bargaining unit.

6. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the university of northern Iowa faculty bargaining unit.

7. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the clerical bargaining unit.

8. The collective bargaining agreement negotiated pursuant to chapter 20 for employees in the 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 agreement 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, related benefits, and expense reimbursements referred to in sections 8 and 9 of this Act for employees not covered by a collective bargaining agreement.

Of the moneys appropriated in this section, the first sums allocated shall be paid to the department of cultural affairs, the Iowa state civil rights commission, and the department of justice to fund the salary annualization costs of those state agencies for the fiscal year beginning July 1, 1994, and ending June 30, 1995.

Sec. 8. NONCONTRACT STATE EMPLOYEES – GENERAL.

1. a. For the fiscal year beginning July 1, 1994, the maximum salary levels of all pay plans provided for in section 19A.9, subsection 2, as they exist for the fiscal year ending June 30, 1994, shall be increased by 2 percent for the pay period beginning July 1, 1994, and by an additional 2 percent for the pay period beginning December 30, 1994.

b. In addition to the increases specified in this subsection, for the fiscal year beginning July 1, 1994, employees may receive a merit increase or the equivalent of a merit increase.

2. The pay plans for state employees who are exempt from chapter 19A and who are included in the department of revenue and finance's centralized payroll system shall be increased in the same manner as provided in subsection 1.

3. This section does not apply to members of the general assembly, board members, commission members, salaries of persons set by the general assembly pursuant to this Act, or set by the governor, employees designated under section 19A.3, subsection 5, and employees covered by 581 IAC 4.5(17).

4. The pay plans for the bargaining eligible employees of the state shall be increased in the same manner 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. 9. STATE EMPLOYEES – STATE BOARD OF REGENTS. Of the funds appropriated for the purpose of providing salary increases in section 7 of this Act, $16,700,000 shall be allocated by the state board of regents for the purposes of providing increases for state board of regents employees covered by section 7 of this Act and for employees not covered by a collective bargaining agreement as follows:

1. For regents merit system employees to fund for the fiscal year beginning July 1, 1994, increases comparable to those provided for similar contract-covered employees in this Act.

2. For faculty members and professional and scientific employees to fund for the fiscal year beginning July 1, 1994, percentage increases comparable to those provided for contract-covered employees in section 7, subsection 6, of this Act.

Sec. 10. 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, 1994, and ending June 30, 1995, 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:

..... $ 1,350,000

2. There is appropriated from the primary road fund to the salary adjustment fund, 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:

To supplement other funds appropriated by the general assembly:

..... $ 3,450,000

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. 11. 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. 12. 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. 13. 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.

Approved May 2, 1994

CHAPTER 1192

APPROPRIATIONS – ENERGY CONSERVATION – PETROLEUM OVERCHARGE FUNDS

S.F. 2091

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, 1994, and ending June 30, 1995, 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 Exxon fund and then the Stripper Well fund for a total appropriation not to exceed:

From Exxon fund ..... $ 500,000
From Stripper Well fund ..... $ 1,560,000

2. To the department of natural resources for the following purposes:

a. 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:

..... $ 178,200

b. For administration of petroleum overcharge programs from the Stripper Well fund, not to exceed the following amount:

..... $ 300,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of any fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Sec. 2. 1993 Iowa Acts, chapter 173, section 1, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining at the end of any fiscal year from the appropriations made in subsections 1 and 2 shall not revert but shall be available for expenditure during subsequent fiscal years until expended for the purposes for which originally appropriated.

Sec. 3. 1993 Iowa Acts, chapter 173, section 2, is amended to read as follows:

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 473.11, for the fiscal period beginning July 1, 1986, and ending June 30~~, 1995,~~ of the fiscal year during which these appropriations were completely expended, to the department of natural resources for disbursement under section 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:

Sec. 4. DEPARTMENT OF HUMAN RIGHTS LOW-INCOME WEATHERIZATION FUNDING. The department of human rights shall propose a funding mechanism which shall be submitted to the general assembly by December 31, 1994, which shall generate an additional five hundred thousand dollars to one million dollars annually to be used for energy weatherization for low-income persons.

Approved May 10, 1994

CHAPTER 1193

APPROPRIATIONS – EDUCATION

H.F. 2411

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, 1994, and ending June 30, 1995, the following amounts, or so much thereof as may be necessary, to be used for the purposes designated:

1. GENERAL ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	5,011,404
.....	FTEs	93.95

2. VOCATIONAL EDUCATION ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	631,884
.....	FTEs	18.32

3. VOCATIONAL REHABILITATION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,473,754
..... 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.

Notwithstanding the full-time equivalent position limit established in this subsection for the fiscal year ending June 30, 1995, if federal funding is available to pay the costs of additional employees for the vocational rehabilitation division who would have duties relating to vocational rehabilitation services paid for through federal funding, authorization to hire not more than four full-time equivalent employees shall be provided, the full-time equivalent position limit shall be exceeded, and the additional employees shall be hired by the division.

b. For matching funds for programs to enable severely physically or mentally disabled persons to function more independently, including salaries and support, and for not more than the following full-time equivalent positions:

..... $ 21,620
..... FTEs 1.50

4. BOARD OF EDUCATIONAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 185,749
..... FTEs 2.00

5. SCHOOL FOOD SERVICE

For use as state matching funds for federal programs that 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 14.00

6. 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:

..... $ 616,000

7. VOCATIONAL AGRICULTURE YOUTH ORGANIZATION

To assist a vocational agriculture youth organization sponsored by the schools to support the foundation established by that vocational agriculture youth organization and for other youth activities:

..... $ 59,400

8. STATE LIBRARY

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,377,075
..... FTEs 33.50

9. REGIONAL LIBRARY

For state aid:

..... $ 1,457,000

10. CENTER FOR ASSESSMENT

For the purpose of developing academic standards in the areas of math, history, science, English, language arts, and geography:

..... $ 300,000

11. IMAGES

For allocation to Merged Area XI to be used for grants to students for the Iowa minority academic grants for economic success program under sections 261.101 through 261.105:

..... $ 60,000

Merged Area XI shall distribute that portion of the funds to a private institution of higher education cooperating with Merged Area XI, for purposes of the Iowa minority academic grants for economic success program, equal to the number of students who are enrolled and participating in the program at the private institution compared to the number of students who are enrolled and participating in the program at the two institutions.

12. PUBLIC BROADCASTING DIVISION

For salaries, support, maintenance, capital expenditures, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 6,137,333

..... FTEs 97.00

13. CORRECTIONS EDUCATION PROGRAM

For educational programs at state penal institutions:

..... $ 1,850,600

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. FAMILY RESOURCE CENTERS

For support of the family resource center demonstration program established under chapter 256C:

..... $ 120,000

16. 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:

..... $ 99,020,486

The funds appropriated in this subsection shall be allocated as follows:

a.	Merged Area I	$	4,655,995
b.	Merged Area II	$	5,603,450
c.	Merged Area III	$	5,305,361
d.	Merged Area IV	$	2,498,578
e.	Merged Area V	$	5,389,288
f.	Merged Area VI	$	5,008,716
g.	Merged Area VII	$	6,879,876
h.	Merged Area IX	$	8,732,354
i.	Merged Area X	$	13,559,285
j.	Merged Area XI	$	14,514,295
k.	Merged Area XII	$	5,681,099
l.	Merged Area XIII	$	5,885,862
m.	Merged Area XIV	$	2,604,048
n.	Merged Area XV	$	8,139,290
o.	Merged Area XVI	$	4,562,989

Sec. 2. There is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1995, and ending June 30, 1996, 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, 1994, and ending June 30, 1995:

..... $ 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, 1995.

Sec. 3. Notwithstanding the appropriation provided in section 294A.25, subsection 1, there is appropriated from the general fund of the state to the department of education for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amounts, or so much thereof as may be necessary, to be used for the purposes 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, 1995, and ending June 30, 1996, 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. 1993 Iowa Acts, chapter 179, section 1, subsection 5, unnumbered paragraph 2, is amended to read as follows:

~~The moneys appropriated by this subsection shall be reduced by $50,000 if~~ 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, the moneys appropriated by this subsection shall be reduced in an amount equal to the difference between the total amount of revenues resulting from the fee increase and $50,000.

Sec. 6. 1993 Iowa Acts, chapter 180, section 62, is amended to read as follows:

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. Merged Area XI shall distribute that portion of the funds to a private institution of higher education cooperating with Merged Area XI, for purposes of the Iowa minority academic grants for economic success program, equal to the number of students who are enrolled and participating in the program at the private institution compared to the number of students who are enrolled and participating in the program at the two institutions.

COLLEGE STUDENT AID COMMISSION

Sec. 7. There is appropriated from the general fund of the state to the college student aid commission for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 301,470
..... FTEs 7.05

From the moneys appropriated in this subsection, $5,000 for the fiscal year beginning July 1, 1994, and ending June 30, 1995, shall be expended to fund the Iowa community scholarship program, and shall not be used to pay, supplement, or supplant the salaries of the employees of the college student aid commission.

The college student aid commission shall conduct a study, in cooperation with Palmer college of chiropractic, of the financial needs of Iowa resident chiropractic students and the demand for chiropractic health care practitioners in Iowa to determine the feasibility of establishing a chiropractic forgivable loan program modeled after the osteopathic forgivable loan program. The commission shall submit its findings to the general assembly by January 3, 1995.

2. 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:

..... $ 395,000

From the moneys appropriated in this lettered paragraph, at least $272,500 for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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.

3. 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, 1994, and ending June 30, 1995, 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.

4. COMMUNITY SCHOLARSHIP PROGRAM

For funding the Iowa community scholarship program:

..... $ 5,000

Moneys appropriated in this subsection shall not be used to pay, supplement, or supplant the salaries of employees of the college student aid commission.

Sec. 8. There is appropriated from the loan reserve account to the college student aid commission 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 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:

..... $ 4,748,061
..... FTEs 33.27

STATE BOARD OF REGENTS

Sec. 9. There is appropriated from the general fund of the state to the state board of regents for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 1,090,723
..... 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 appropriations subcommittee on education.

The state board of regents shall conduct the following studies:

(1) A comparison of need-based and academic-based federal and state student financial aid programs to determine the trends and demands for state and federal financial aid programs.

(2) A study of the supply and the current and projected demand for state and federal student financial aid programs at the institutions of higher learning under the control of the state board of regents.

(3) A study to determine whether there is a need to increase funding of student financial aid programs to accommodate increasing numbers of nontraditional students in institutions of higher learning under the control of the state board of regents.

The state board of regents shall submit a report of its findings and recommendations to the general assembly by January 1, 1995. Included in the report shall be the state board of regents' anticipated plans for need-based and academic-based student financial aid programs.

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:

..... $ 25,843,645

The state board of regents, the department of management, and the legislative fiscal bureau shall cooperate to determine and agree upon, by November 15, 1994, the amount that needs to be appropriated for tuition replacement for the fiscal year beginning July 1, 1995.

c. For funds to be allocated to the southwest Iowa graduate studies center:

..... $ 68,165

d. For funds to be allocated to the siouxland interstate metropolitan planning council for the tristate graduate center under section 262.9, subsection 21:

..... $ 67,750

e. For funds to be allocated to the quad-cities graduate studies center:

..... $ 144,104

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:

..... $ 183,680,721
..... FTEs 3,999.37

b. For the primary health care initiative in the college of medicine, and for not more than the following full-time equivalent positions:

	$	630,000
	FTEs	5.60

From the moneys appropriated in this lettered paragraph, $330,000 shall be allocated to the department of family practice at the state university of Iowa college of medicine for family practice faculty and support staff.

c. University hospitals

For salaries, support, maintenance, equipment, and miscellaneous purposes and for medical and surgical treatment of indigent patients as provided in chapter 255, and for not more than the following full-time equivalent positions:

	$	28,182,097
	FTEs	5,614.36

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 fiscal year beginning July 1, 1994, shall not be lower than the total quota allocated to the counties for the fiscal year commencing July 1, 1993. 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, and miscellaneous purposes and for the care, treatment, and maintenance of committed and voluntary public patients, and for not more than the following full-time equivalent positions:

	$	6,821,774
	FTEs	302.28

e. Hospital-school

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	5,479,934
	FTEs	172.00

f. Oakdale campus

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	2,767,936
	FTEs	63.58

g. State hygienic laboratory

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	3,021,202
	FTEs	100.69

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:

	$	1,779,326
	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:

	$	422,671
	FTEs	11.04

j. Agricultural health and safety programs

For agricultural health and safety programs, and for not more than the following full-time equivalent positions:

	$	243,811
	FTEs	3.48

k. Statewide tumor registry

For the statewide tumor registry, and for not more than the following full-time equivalent positions:

	$	185,696
	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:

	$	60,889
	FTEs	1.15

m. Center for biocatalysis

For the center for biocatalysis, and for not more than the following full-time equivalent positions:

	$	1,280,078
	FTEs	4.00

n. National advanced driving simulator

For the national advanced driving simulator, and for not more than the following full-time equivalent positions:

	$	269,342
	FTEs	4.40

3. IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY

a. General university

For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

	$	146,400,798
	FTEs	3,556.28

From the moneys appropriated in this lettered paragraph, $25,000 for the fiscal year beginning July 1, 1994, and ending June 30, 1995, shall be expended by the university to contract for services with the department of public health, for purposes of granting funds to a child farm safety program.

b. Agricultural experiment station

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 30,000,424
..... FTEs 515.95

From the moneys appropriated in this lettered paragraph, for the fiscal year beginning July 1, 1994, and ending June 30, 1995, $100,000 shall be expended to support a beginning farmer center as provided in section 266.39D, as enacted in this Act.

c. Cooperative extension service in agriculture and home economics

For salaries, support, maintenance, and miscellaneous purposes, including salaries and support for the fire service institute, and for not more than the following full-time equivalent positions:

..... $ 17,653,873
..... FTEs 428.28

d. 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:

..... $ 555,331
..... FTEs 12.29

e. For deposit in and the use of the livestock disease research fund under section 267.8, and for not more than the following full-time equivalent positions:

..... $ 276,186
..... FTEs 3.37

4. UNIVERSITY OF NORTHERN IOWA

a. For salaries, support, maintenance, equipment, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 65,812,919
..... FTEs 1,426.31

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:

..... $ 6,151,492
..... 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:

..... $ 3,400,643
..... FTEs 84.83

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:

..... $ 11,232

Sec. 10. Reallocations of sums received under section 9, subsections 2, 3, 4, 5, and 6, of this Act, including sums received for salaries, shall be reported on a quarterly basis to the co-chairpersons and ranking members of the legislative fiscal committee and the joint appropriations subcommittee on education.

Sec. 11. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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. 12. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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 the 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 year beginning October 1, 1994, and ending September 30, 1995, 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 to 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. 13. There is appropriated from the general fund of the state to the department of cultural affairs 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. ARTS DIVISION

For salaries, support, maintenance, 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:

..... $	1,041,120
..... FTEs	10.00

2. HISTORICAL DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	2,282,706
..... FTEs	56.00

3. HISTORIC SITES

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	223,674
..... FTEs	3.00

4. ADMINISTRATION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	257,469
..... FTEs	4.30

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:

..... $	702,626
..... FTEs	.70

Sec. 14. Notwithstanding section 8.33, funds appropriated in 1993 Iowa Acts, chapter 179, section 6, subsection 2, remaining unencumbered or unobligated on June 30, 1994, shall not revert to the general fund of the state but shall be available for expenditure for purposes of the higher education strategic planning council during the fiscal year beginning July 1, 1994, and ending June 30, 1995.

Sec. 15. Notwithstanding sections 257B.1 and 257B.1A, for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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. 16. Funds appropriated for state scholarships pursuant to section 261.25, subsection 2, for the fiscal year beginning July 1, 1994, and ending June 30, 1995, shall be used in their entirety to fund scholarships to eligible students, and the college student aid commission shall not place an across-the-board ceiling on the amount distributed under the state scholarship program.

Sec. 17. Section 256.7, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 24. Adopt rules that require the board of directors of a school district to waive school fees for indigent families.

Sec. 18. Section 256.52, subsection 3, paragraph c, Code Supplement 1993, is amended to read as follows:

c. Control all property of the division. The state librarian may dispose of, through sale, conveyance, or exchange, any library materials that may be obsolete or worn out or that may no longer be needed or appropriate to the mission of the state library of Iowa. These materials may be sold by the state library directly or the library may sell the materials by consignment with an outside entity. A state library fund is created in the state treasury. Proceeds from the sale of the library materials shall be remitted to the treasurer of state and credited to the state library fund and shall be used for the purchase of books and other library materials. Notwithstanding section 8.33, any balance in the fund on June 30 of any fiscal year shall not revert to the general fund of the state.

Sec. 19. Section 261.25, subsection 1, Code Supplement 1993, is amended to read as follows:

1. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of ~~thirty-one~~ thirty-two million ~~five~~ four hundred ~~twenty-three~~ twenty-two thousand ~~nine~~ three hundred ~~thirty~~ sixty-two dollars for tuition grants.

Sec. 20. Section 261.25, subsection 3, Code Supplement 1993, is amended to read as follows:

3. There is appropriated from the general fund of the state to the commission for each fiscal year the sum of one million ~~three~~ four hundred ~~eighty-five~~ twenty-four thousand seven hundred eighty dollars for vocational-technical tuition grants.

Sec. 21. Section 262.9, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 29. Authorize the institutions of higher learning under the board to charge an interest rate, not to exceed the prime rate plus six percent, on delinquent bills. However, the board shall prohibit the institutions from charging interest on late tuition payments and room and board payments if financial aid payments to students enrolled in the institutions are delayed by the lending institution.

Sec. 22. NEW SECTION. 266.39D BEGINNING FARMER CENTER.

1. A beginning farmer center is established as a part of the Iowa cooperative extension service in agriculture and home economics at Iowa state university of science and technology to assist individuals beginning farming operations. The center shall also assist in facilitating the transition of farming operations from established farmers to beginning farmers, including by matching purchasers and sellers of agricultural land, creating and maintaining an information base inventorying land and facilities available for acquisition, and developing models to increase the number of family farming operations in this state. The objectives of the beginning farmer center shall include, but are not limited to, the following:

a. To provide the coordination of education programs and services for beginning farmer efforts statewide.

b. To assess needs of beginning farmers and retiring farmers in order to identify program and service opportunities.

c. To develop, coordinate, and deliver statewide through the Iowa cooperative extension service in agriculture and home economics, and other entities as appropriate, targeted education to beginning farmers and retiring farm families.

2. Programs and services provided by the beginning farmer center shall include, but are not limited to, the development of skills and knowledge in financial management and planning, legal issues, tax laws, technical production and management, leadership, sustainable agriculture, human health, the environment, and leadership.

3. The beginning farmer center shall submit to the general assembly, annually on or before January 15, a report that includes but is not limited to recommendations for methods by which more individuals may be encouraged to enter agriculture.

Sec. 23. Section 283A.1, subsection 4, Code 1993, is amended to read as follows:

4. "School breakfast or lunch program" means a program under which breakfasts or lunches are served by any public school in the state of Iowa on a nonprofit basis to children in attendance, including any such program under which a school receives assistance out of funds appropriated by the Congress of the United States.

Sec. 24. Section 283A.2, Code 1993, is amended to read as follows:

283A.2 SCHOOL ~~BOARDS~~ — ~~RULES~~ LUNCH AND BREAKFAST PROGRAMS.

1. School boards may ~~operate or provide for the operation of school lunch programs in schools under their jurisdiction, and may~~ use gifts, funds disbursed to them under the provisions of this chapter, ~~gifts,~~ funds received from sale of school breakfasts or lunches ~~under such programs~~, and any other funds legally available for ~~that~~ the purpose of operating a school breakfast or lunch program.

2. All school districts shall operate or provide for the operation of school breakfast and lunch programs at all public schools in each district. The programs shall provide students with nutritionally adequate meals and shall be operated in compliance with the rules of the state board of education and pertinent federal ~~rules~~ law and regulation, for all students in each district who attend public school ~~four or more hours each school day~~ and wish to participate in a school breakfast or lunch program. ~~School districts may provide school lunch programs for other students.~~

3. Effective July 1, 1999, all school districts shall operate or provide for the operation of school breakfast programs at all public schools in each district. The programs shall provide students with nutritionally adequate meals and shall be operated in compliance with the rules of the state board of education and pertinent federal law and regulation, for all students in each district who attend public school and who wish to participate in a school breakfast program. A school or school district unable to meet the requirement to provide a school breakfast program may, not later than June 1, 1999, for the school year beginning July 1, 1999, file a written request to the department of education that the department waive the requirement for that school or school district. The written request shall include the reason for which the waiver is being requested. The state board shall evaluate the application for waiver, determine the validity of the reason for which the waiver is being requested, and grant or deny the application for waiver. The state board shall establish criteria for determination of the validity of reasons for waiver of the requirement that school breakfast programs be operated at each school. However, the state board shall not waive the school breakfast program requirement for a school if thirty-five percent or more of the students in attendance at the school during the month of March 1999 were eligible for free or reduced price meals under the federal National School Lunch Act and the federal Child Nutrition Act of 1966, 42 U.S.C. § 1751-1785.

Sec. 25. Section 283A.3, Code 1993, is amended to read as follows:

283A.3 EXPENDITURE OF FEDERAL FUNDS.

The director of the department of education ~~is hereby authorized to~~ shall accept and direct the disbursement of funds appropriated by any Act of Congress and appropriated to the state of Iowa for use in connection with school breakfast or lunch programs. The director shall deposit ~~all such~~ the funds with the treasurer of the state of Iowa, who shall make disbursements ~~therefrom~~ upon the direction of the director.

Sec. 26. Section 283A.4, Code 1993, is amended to read as follows:

283A.4 ADMINISTRATION OF PROGRAM.

The director of the department of education may enter into ~~such~~ agreements with any agency of the federal government, with any school board, or with any other agency or person, ~~prescribe such regulations~~ adopt rules, employ ~~such~~ personnel, and take ~~such~~ other action as the director may deem necessary to provide for the establishment, maintenance, operation, and expansion of any school breakfast or lunch program, and to direct the disbursement of federal and state funds, in accordance with any applicable provisions of federal or state law. The director may give technical advice and assistance to any school board in connection with the establishment and operation of any school breakfast or lunch program and may assist in training ~~such~~ personnel engaged in the operation of ~~such~~ the program. The director of the department of education and any school board may accept any gift for use in connection with any school breakfast or lunch program.

Sec. 27. Section 283A.5, Code 1993, is amended to read as follows:

283A.5 ACCOUNTS, RECORDS, REPORTS, AND OPERATIONS.

The director of the department of education shall ~~prescribe regulations~~ adopt rules for the keeping of accounts and records and the making of reports by or under the supervision of school boards. ~~Such~~ The accounts and records shall at all times be available for inspection and audit by authorized officials and shall be preserved for such period of time, not in excess of five years, as the director may lawfully prescribe. The director shall conduct or cause to be conducted such audits and inspections with respect to school breakfast or lunch programs as may be necessary to determine whether its agreement with school boards and ~~regulations made~~ rules adopted pursuant to this chapter are being complied with, and to insure that school breakfast or lunch programs are effectively administered and nutritionally adequate meals are served.

Sec. 28. Section 283A.7, Code 1993, is amended to read as follows:

283A.7 FEDERAL BENEFITS ACCEPTED.

The provisions of the ~~Acts of Congress known~~ as ~~the national school lunch~~ federal National School Lunch Act and the ~~child nutrition~~ federal Child Nutrition Act of 1966, ~~found in 42 U. S. Code~~ U.S.C. § 1751–1785, and the benefit of all funds appropriated under ~~said~~ the Acts, are ~~hereby~~ accepted by the state of Iowa.

Sec. 29. Section 283A.8, Code 1993, is amended to read as follows:

283A.8 USE OF SCHOOL ~~LUNCH~~ MEAL FACILITIES BY SENIOR CITIZENS.

Boards of directors of school corporations may authorize the use by senior citizen organizations of school ~~lunch~~ meal facilities subject to reasonable rules and regulations of the board. Such use shall not interfere with the use of the facilities for public school purposes. The board may charge for such use an amount not to exceed the cost to the district.

Sec. 30. Section 283A.9, Code 1993, is amended to read as follows:

283A.9 BUILDING FOR SCHOOL ~~LUNCH~~ MEAL FACILITY.

School districts may purchase, erect, or otherwise acquire a building for use as a school ~~lunch~~ meal facility, and equip a building for that use, and pay for the acquisition or equipping from unencumbered funds on hand in the schoolhouse fund, subject to the terms of this section, or may pay for the facility or equipment from the proceeds of the sale of school property sold under section 297.22, or from surplus remaining in the schoolhouse fund after retirement of a bond issue.

Sec. 31. Section 283A.10, Code 1993, is amended to read as follows:

283A.10 SCHOOL BREAKFAST OR LUNCH IN NONPUBLIC SCHOOLS.

The authorities in charge of nonpublic schools may operate or provide for the operation of school breakfast or lunch programs in schools under their jurisdiction and may use funds appropriated to them by the general assembly, gifts, funds received from sale of school breakfasts or lunches under such programs, and any other funds available to the nonpublic school. However, school breakfast or lunch programs shall not be required in nonpublic

schools. The department of education shall direct the disbursement of state funds to nonpublic schools for school breakfast or lunch programs in the same manner as state funds are disbursed to public schools. If a nonpublic school receives state funds for the operation of a school breakfast or lunch program, meals served under the program shall be nutritionally adequate meals, as defined in section 283A.1.

Sec. 32. Section 294A.25, subsection 8, Code Supplement 1993, is amended to read as follows:

8. For the fiscal year beginning July 1, ~~1993~~ 1994, to the department of education from phase III moneys the amount of ~~seven hundred fifty thousand~~ one million 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. 33. FUNDS TRANSFERRED.

1. For the fiscal year beginning July 1, 1994, the amount of fifty thousand dollars from additional funds transferred from phase I to phase III is to be paid to the department of education for support of the Iowa mathematics and science coalition.

2. For the fiscal year beginning July 1, 1994, the amount of one hundred fifty thousand dollars is to be paid to the department of education from additional funds transferred from phase I to phase III for support of the school and community planning program. Notwithstanding section 294A.20, if the additional funds transferred from phase I to phase III are insufficient for purposes of the appropriation provided under this subsection, moneys allocated to phase III, which would otherwise revert to the general fund under section 294A.20, shall be transferred to the department in an amount sufficient to fully fund the appropriation made under this subsection. If funds available from the specified sources are insufficient to fully fund the appropriation, the amount appropriated to the department under this subsection shall be reduced to an amount equal to the available funds.

Sec. 34. IMPLEMENTATION PLAN. The department of cultural affairs shall develop an implementation plan for the arts and cultural enhancement program, the Iowa arts and cultural endowment account, and the regional conferences and statewide caucus on arts and cultural enhancement, under chapter 303C of the Iowa Code. The department shall submit the implementation plan to the standing committee on education and the joint appropriations subcommittees on education of the senate and the house of representatives by January 1, 1995.

Sec. 35. The amounts appropriated in sections 2 and 4 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, 1994, for the purposes for which moneys are appropriated in sections 2 and 4 of this Act.

Sec. 36. REPEAL. Effective July 1, 2000, section 283A.2, subsection 3, as enacted in this Act, is amended by striking the subsection.

Sec. 37. REPEAL. Chapter 272D, Code 1993, is repealed on July 1, 1995.

Sec. 38. EFFECTIVE DATE. Section 283A.2, subsection 2, as created and amended in this Act, takes effect July 1, 2000.

Sec. 39. Sections 5, 6, and 14 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 10, 1994

CHAPTER 1194

FEDERAL BLOCK GRANT APPROPRIATIONS

H.F. 2323

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 and applicability 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, 1994, and ending September 30, 1995, the following amount:

..... $ 9,769,497

Funds appropriated by this subsection are the anticipated funds to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title XIX, Subtitle B, section 202, which provides for the substance abuse prevention and treatment block grant. The department shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding 5 percent shall be used by the department for administrative expenses.

Of the amount appropriated in this subsection, an amount not less than five percent 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.

Of the funds appropriated in this subsection, an amount not exceeding $24,585 shall be used for audits, including a study of the effectiveness of treatment programs.

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 for prevention programs.

b. At least thirty-five percent of the allocation shall be spent on drug treatment and prevention activities.

c. At least thirty-five percent of the allocation shall be spent on alcohol treatment and prevention activities.

3. The substance abuse block grant funds received from the federal government in excess of the amount of the anticipated federal fiscal year 1994-1995 award appropriated in subsection 1 shall be distributed at least fifty percent to treatment programs and fifty percent to prevention programs except that, based upon federal guidelines, the total amount of the excess awarded to prevention programs shall not exceed $1,000,000.

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, 1994, and ending September 30, 1995, 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 APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 1994, and ending September 30, 1995, the following amount:

..... $ 6,827,338

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 by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding $45,700 shall be used for audits.

Funds appropriated in this subsection shall not be used by the university of Iowa hospitals and clinics for indirect costs.

2. An amount not exceeding $150,000 of the funds appropriated in subsection 1 to the Iowa department of public health shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

The departments of public health, human services, and education and the university of Iowa's mobile and regional child health specialty clinics shall continue to pursue to the maximum extent feasible the coordination and integration of services to women and children.

3. Sixty-three percent of the remaining funds appropriated in subsection 1 shall be allocated to supplement appropriations for maternal and child health programs within the Iowa department of public health. Of these funds, $284,548 shall be set aside for the statewide perinatal care program.

Thirty-seven percent of the remaining funds appropriated in subsection 1 shall be allocated to the university of Iowa hospitals and clinics under the control of the state board of regents for mobile and regional child health specialty clinics. The university of Iowa hospitals and clinics shall not receive an allocation for indirect costs from the funds for this program. Priority shall be given to establishment and maintenance of a statewide system of mobile and regional child health specialty clinics.

4. Those federal maternal and child health services block grant funds transferred from the federal preventive health and health services block grant funds under section 4, subsection 4 of this Act for the federal fiscal year beginning October 1, 1994, 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 APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the Iowa department of public health for the federal fiscal year beginning October 1, 1994, and ending September 30, 1995, the following amount:

..... $ 1,676,182

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. 102-531, Title XIX, Subtitle A, which provides for the preventive health and health services block grant. The department shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

Of the funds appropriated in this subsection, an amount not exceeding $5,522 shall be used for audits.

2. An amount not exceeding $94,670 of the remaining funds appropriated in subsection 1 shall be used by the Iowa department of public health for administrative expenses in addition to the amount to be used for audits in subsection 1.

3. Of the remaining funds appropriated in subsection 1, the specific amount of funds 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 established under 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, 1994, and ending September 30, 1995, the following amount:

..... $ 4,200,000

Funds appropriated by this subsection are the anticipated funds to be received from the federal government for the designated fiscal year under Pub. L. No. 100-690 which provides for the drug control and system improvement grant program. The drug enforcement and abuse

coordinator shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding 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 APPROPRIATIONS.

1. a. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 1994, and ending September 30, 1995, the following amount:

..... $ 4,198,770

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title VI, Subtitle B, which provides for the community services block grant. The division of community action agencies of the department of human rights shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

b. The administrator of the division of community action agencies of the department of human rights shall allocate not less than 96 percent of the amount of the block grant to 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 redistributing increased funds from agencies experiencing a greater share of available funds. The funds shall be distributed on the basis of the poverty-level population in the area represented by the community action areas compared to the size of the poverty-level population in the state.

2. An amount not exceeding 4 percent of the funds appropriated in subsection 1 shall be used by the division of community action agencies of the department of human rights for administrative expenses. From the funds set aside by this subsection for administrative expenses, the division of community action agencies of the department of human rights shall pay to the auditor of state an amount sufficient to pay the cost of auditing the use and administration of the state's portion of the funds appropriated in subsection 1. The auditor of state shall bill the division of community action agencies for the costs of the audits.

Sec. 7. COMMUNITY DEVELOPMENT APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of economic development for the federal fiscal year beginning October 1, 1994, and ending September 30, 1995, the following amount:

..... $ 31,600,000

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title III, Subtitle A, which provides for the community development block grant. The department of economic development shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $1,464,000 for the federal fiscal year beginning October 1, 1994, 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 $732,000 for the federal fiscal year beginning October 1, 1994, of funds appropriated in subsection 1 and a matching contribution from the state equal to $732,000 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 APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the department of education for the state fiscal year beginning July 1, 1994, and ending June 30, 1995, 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 by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Twenty percent of the funds appropriated in subsection 1, not to exceed $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 APPROPRIATIONS.

1. There is appropriated from the fund created by section 8.41 to the division of community action agencies of the department of human rights for the federal fiscal year beginning October 1, 1994, and ending September 30, 1995, the following amount:

..... $ 26,281,082

The funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title XXVI, as amended by Pub. L. No. 98-558, which provides for the low-income home energy assistance block grants. The division of community action agencies of the department of human rights shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. An amount not exceeding $2,233,892, 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. 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, 1995, at least 15 percent of the funds appropriated by subsection 1 shall be used for low-income residential weatherization or other related home repairs for low-income households. Of this amount, an amount not exceeding 10 percent may be used for administrative expenses.

4. An eligible household must be willing to allow residential weatherization or other related home repairs in order to receive home energy assistance. If the eligible household resides in rental property, the unwillingness of the landlord to allow residential weatherization or other related home repairs shall not prevent the household from receiving home energy assistance.

5. Of the funds appropriated under subsection 1, $1,000,000 shall be reserved to pay final vendor reconciliations of all affordable heating assistance participants.

6. Not more than $1,000,000 of the funds appropriated under subsection 1 shall be used for assessment and resolution of energy problems.

Sec. 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, 1994, and ending September 30, 1995, the following amount:

..... $ 30,694,425

Funds appropriated by this subsection are the funds anticipated to be received from the federal government for the designated federal fiscal year under Pub. L. No. 97-35, Title XXIII, Subtitle C, as codified in 42 U.S.C. sections 1397-1397f, which provides for the social services block grant. The department of human services shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A.

2. Not more than $1,725,148 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, 1994, for the following programs within the department of human services:

a. Field operations:

..... $ 12,124,297

b. Child and family services:

..... $ 14,101,019

c. Child care assistance:

..... $ 1,310,652

d. Local administrative costs and other local services:

..... $ 1,164,210

e. Volunteers:

..... $ 122,778

f. Community-based services:

..... $ 146,321

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.

The proposed plan shall include all programs and services at the state level which the department proposes to fund with federal social services block grant funds, and shall identify state and other funds which the department proposes to use to fund the state programs and services.

The proposed plan shall also include all local programs and services which are eligible to be funded with federal social services block grant funds, the total amount of federal social services block grant funds available for the local programs and services, and the manner of distribution of the federal social services block grant funds to the counties. The proposed plan shall identify state and local funds which will be used to fund the local programs and services.

The proposed plan shall be submitted with the department's budget requests to the governor and the general assembly.

Sec. 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. 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, 1994, and ending September 30, 1995, the following amount:

..... $ 8,469,766

Funds appropriated by this subsection are the funds anticipated to be received from the federal government under Pub. L. No. 101-508, section 5082, which provides for the child care and development block grant. The department shall expend the funds appropriated by this section as provided in the federal law making the funds available and in conformance with chapter 17A.

Sec. 14. PROCEDURE FOR REDUCED FEDERAL FUNDS.

1. If the funds received from the federal government for the block grants specified in this Act are less than the amounts appropriated, the funds actually received shall be prorated by the governor for the various programs, other than for the rape prevention program under section 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. 15. PROCEDURE FOR INCREASED FEDERAL FUNDS.

1. If funds received from the federal government in the form of block grants exceed the amounts appropriated in sections 1, 2, 3, 4, 5, 7, 8, 10, and 13 of this Act, the excess shall be prorated to the appropriate programs according to the percentages specified in those sections, except additional funds shall not be prorated for administrative expenses.

2. If funds received from the federal government from block grants exceed the amount appropriated in section 9 of this Act, at least 15 percent and not more than 15 percent of the excess shall be allocated to the low-income residential weatherization program.

3. If funds received from the federal government from community services block grants exceed the amount appropriated in section 6 of this Act, 100 percent of the excess is allocated to the community services block grant program.

Sec. 16. PROCEDURE FOR CONSOLIDATED, CATEGORICAL, OR EXPANDED FEDERAL BLOCK GRANTS. Notwithstanding section 8.41, federal funds made available to the state which are authorized for the federal fiscal year beginning October 1, 1994, 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, 1993, as modified by the 1994 Session of the Seventy-fifth General Assembly for the state fiscal year beginning July 1, 1994, compared to the total federal funds received in the federal fiscal year beginning October 1, 1993, 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, 1993, but had anticipated applying for funds during the federal fiscal year beginning October 1, 1994, the governor may allocate the funds in order to provide funding.

If the amount received in the form of a consolidated or expanded block grant is less than the total amount of federal funds received for the programs in the form of categorical grants for the federal fiscal year beginning October 1, 1993, 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, 1993, 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, 1993. Chairpersons notified shall be allowed at least two weeks to review and comment on the proposed action before the action is taken.

If the amount received in the form of a consolidated or expanded block grant is more than the total amount of federal funds received for the programs in the form of categorical grants for the federal fiscal year beginning October 1, 1993, the excess funds shall be deposited in the special fund created in section 8.41 and are subject to the provisions of that section.

Sec. 17. PROCEDURE FOR EXPENDITURE OF ADDITIONAL FEDERAL FUNDS. 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 applicable department or agency prior to March 15 of the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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. 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, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.

1. For plant and animal disease and pest control, grant number 10025:
..... $ 670,666
2. For assistance for intrastate meat and poultry, grant number 10475:
..... $ 918,839
3. For farmers market nutrition program, grant number 10577:
..... $ 320,647
4. For soil and water conservation, grant number 10902:
..... $ 190,300
5. For food and drug — research grants, grant number 13103:
..... $ 166,241
6. For surface coal mining regulation, grant number 15250:
..... $ 149,328
7. For abandoned mine land reclamation, grant number 15252:
..... $ 2,204,461
8. For pesticide enforcement program, grant number 66700:
..... $ 599,081
9. For pesticide certification program, grant number 66720:
..... $ 59,050

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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.

1. For vocational rehabilitation — FICA, grant number 13802:
..... $ 464,218
2. For assistive technology information network, grant number 84022:
..... $ 22,980
3. For rehabilitation services — basic support, grant number 84126:
..... $ 4,270,586
4. For rehabilitation training, grant number 84129:
..... $ 27,073
5. For centers for independent living, grant number 84132:
..... $ 123,319
6. For independent living project, grant number 84169:
..... $ 49,077
7. For older blind, grant number 84177:
..... $ 194,060
8. For supported employment, grant number 84187:
..... $ 63,626

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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.

1. For historic preservation grants-in-aid, grant number 15904:
..... $ 490,100
2. For promotion of the arts — education, grant number 45003:
..... $ 110,200
3. For promotion of the arts — federal and state, grant number 45007:
..... $ 486,000
4. For promotion of the arts — special projects, grant number 45011:
..... $ 31,500

It is the intent of the general assembly that the department of cultural affairs place an emphasis on programs which provide grants to local arts and cultural organizations when making application for federal funds during the fiscal year beginning July 1, 1994, for the federal fiscal year which begins on October 1, 1995.

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, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.

1. For nutrition program for elderly, grant number 10570:
..... $ 2,090,803
2. For senior community service employment program, grant number 17235:
..... $ 1,008,816
3. For prevention of elder abuse, grant number 93041:
..... $ 54,099
4. For preventive health, grant number 93043:
..... $ 215,025
5. For supportive services, grant number 93044:
..... $ 4,469,202
6. For nutrition, grant number 93045:
..... $ 5,761,049
7. For frail elderly, grant number 93046:
..... $ 90,296

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, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.

1. For Trade Expansion Act, grant number 11309:
..... $ 295,000
2. For child support enforcement, grant number 13783:
..... $ 109,068
3. For employment statistics, grant number 17002:
..... $ 1,400,416
4. For research and statistics, grant number 17005:
..... $ 95,421
5. For labor certification, grant number 17202:
..... $ 108,885
6. For employment service, grant number 17207:
..... $ 11,640,817
7. For unemployment insurance grant to state, grant number 17225:
..... $ 19,730,000

8. For occupational safety and health, grant number 17500:
..... $ 1,585,286
9. For disabled veterans outreach, grant number 17801:
..... $ 1,016,101
10. For local veterans employment representation, grant number 17804:
..... $ 1,382,805
11. For unemployment insurance trust receipts, grant number 17998:
..... $ 145,000,000

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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.
1. For juvenile justice and delinquency prevention, grant number 16540:
..... $ 545,924
2. For weatherization assistance, grant number 81042:
..... $ 4,452,472
3. For client assistance, grant number 84161:
..... $ 108,100
4. For low-income home energy assistance, grant number 93568:
..... $ 25,214,357
5. For community services block grant, grant number 93572:
..... $ 4,330,117

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, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.
1. For assistance for intrastate meat and poultry, grant number 10475:
..... $ 19,480
2. For food and drug — research grants, grant number 13103:
..... $ 5,819
3. For Title XVIII medicare inspections, grant number 13773:
..... $ 2,659,692
4. For state medicaid fraud control unit, grant number 13775:
..... $ 1,790
5. For state medicaid fraud control, grant number 93775:
..... $ 293,376

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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, are appropriated to the department of management for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 37. DEPARTMENT OF NATURAL RESOURCES. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the department of natural resources for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.

1. For forestry incentive program, grant number 10064:
..... $ 985,000
2. For cooperative forestry assistance, grant number 10664:
..... $ 490,000
3. For surface coal mining regulation, grant number 15250:
..... $ 28,128
4. For fish restoration, grant number 15605:
..... $ 4,715,400
5. For wildlife restoration, grant number 15611:
..... $ 2,300,000
6. For rare and endangered species conservation, grant number 15612:
..... $ 34,500
7. For acquisition, development, and planning, grant number 15916:
..... $ 500,000
8. For recreation boating safety financial assistance, grant number 20005:
..... $ 225,000
9. For Clean Lakes Act, grant number 66435:
..... $ 250,000
10. For consolidated environmental programs support, grant number 66600:
..... $ 8,091,391
11. For energy conservation, grant number 81041:
..... $ 297,274
12. For energy extension service, grant number 81050:
..... $ 107,860
13. For grants for local government, grant number 81052:
..... $ 323,066

Sec. 38. BOARD OF PAROLE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the board of parole for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 39. DEPARTMENT OF PERSONNEL. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the department of personnel for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 40. DEPARTMENT OF PUBLIC DEFENSE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the department of public defense for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.

1. For military operations — Army national guard, grant number 12991:
..... $ 7,301,305
2. For hazardous materials transport, grant number 20703:
..... $ 146,993
3. For population protection planning, grant number 83211:
..... $ 254,373
4. For emergency management training, grant number 83403:
..... $ 108,631
5. For emergency management assistance, grant number 83503:
..... $ 897,619
6. For state and local maintenance and service, grant number 83504:
..... $ 52,200
7. For state disaster preparedness grants, grant number 83505:
..... $ 20,000
8. For state and local emergency operation centers, grant number 83512:
..... $ 2,100,000
9. For disaster assistance, grant number 83516:
..... $ 6,039,252
10. For hazard mitigation, grant number 83519:
..... $ 430,000

Sec. 41. PUBLIC EMPLOYMENT RELATIONS BOARD. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the public employment relations board for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 42. STATE BOARD OF REGENTS. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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, in the following amounts for the purposes indicated.

1. For agricultural experiment, grant number 10203:
..... $ 3,870,819
2. For 1890 land grant colleges, grant number 10205:
..... $ 50,000
3. For cooperative extension service, grant number 10500:
..... $ 8,400,000
4. For school breakfast program, grant number 10553:
..... $ 10,260
5. For school lunch program, grant number 10555:
..... $ 211,398
6. For maternal and child health, grant number 13110:
..... $ 105,435

7. For cancer treatment research, grant number 13395:
..... $ 29,776
8. For general research, grant number 83500:
..... $ 207,896,969
9. For education of handicapped children, grant number 84009:
..... $ 20,713
10. For handicapped — state grants, grant number 84027:
..... $ 263,417

Sec. 43. DEPARTMENT OF REVENUE AND FINANCE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the department of revenue and finance for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 44. OFFICE OF SECRETARY OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the office of secretary of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 45. IOWA STATE FAIR AUTHORITY. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the Iowa state fair authority for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 46. OFFICE OF 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, 1994, and ending June 30, 1995, 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. 47. OFFICE OF TREASURER OF STATE. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the office of treasurer of state for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 48. DEPARTMENT OF PUBLIC SAFETY. 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, 1994, and ending June 30, 1995, are appropriated to the department of public safety, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.
1. For department of housing and urban development, grant number 14000:
..... $ 19,292
2. For department of justice, grant number 16000:
..... $ 400,000
3. For marijuana control, grant number 16580:
..... $ 58,000
4. For state and community highway safety, grant number 20600:
..... $ 2,191,569

Sec. 49. IOWA DEPARTMENT OF PUBLIC HEALTH. 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, 1994, and ending June 30, 1995, are appropriated to the Iowa department

of public health for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.

1. For women, infants, and children, grant number 10557:
..... $ 25,158,507
2. For food and drug — research grants, grant number 13103:
..... $ 12,582
3. For primary care services, grant number 13130:
..... $ 61,148
4. For health services — grants and contracts, grant number 13226:
..... $ 303,756
5. For drug abuse research grant, grant number 13279:
..... $ 97,270
6. For prevention disability, grant number 13283:
..... $ 93,747
7. For treatment programs, grant number 13902:
..... $ 242,784
8. For health programs for refugees, grant number 13987:
..... $ 36,777
9. For alcohol and drug abuse block grant, grant number 13992:
..... $ 10,983,789
10. For radon control, grant number 66032:
..... $ 261,450
11. For toxic substance compliance monitoring, grant number 66701:
..... $ 200,082
12. For asbestos enforcement program, grant number 66702:
..... $ 184,480
13. For drug-free schools — communities, grant number 84186:
..... $ 1,283,809
14. For consumer protection safety, grant number 87001:
..... $ 17,600
15. For regional delivery systems, grant number 93110:
..... $ 341,116
16. For PB* control — elimination, grant number 93116:
..... $ 93,412
17. For AIDS prevention project, grant number 93118:
..... $ 948,613
18. For physician education, grant number 93161:
..... $ 315,151
19. For childhood lead, grant number 93197:
..... $ 305,672
20. For family planning projects, grant number 93217:
..... $ 517,350
21. For immunization program, grant number 93268:
..... $ 630,370
22. For needs assessment grant, grant number 93283:
..... $ 1,271,862
23. For model programs for adolescents, grant number 93902:
..... $ 710,408
24. For rural health, grant number 93913:
..... $ 49,489
25. For HIV cares grants, grant number 93917:
..... $ 110,588

*The term "TB" probably intended

26. For trauma care, grant number 93953:
..... $ 164,301
27. For preventive health services, grant number 93977:
..... $ 392,399
28. For preventive health blocks, grant number 93991:
..... $ 1,417,241
29. For maternal and child health block grant, grant number 93994:
..... $ 6,976,288

Sec. 50. DEPARTMENT OF HUMAN 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, 1994, and ending June 30, 1995, are appropriated to the department of human services, for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.

1. For food stamps, grant number 10551:
..... $ 3,843,072
2. For administration expense for food stamps, grant number 10561:
..... $ 9,728,338
3. For commodity support food program, grant number 10565:
..... $ 312,671
4. For temporary emergency food assistance, grant number 10568:
..... $ 382,000
5. For child care planning and development, grant number 13673:
..... $ 14,281
6. For Title XVIII medicare inspections, grant number 13773:
..... $ 100,000
7. For foster grandparents program, grant number 72001:
..... $ 359,097
8. For retired senior volunteer program, grant number 72002:
..... $ 23,844
9. For disaster assistance, grant number 83516:
..... $ 1,000,000
10. For projects with industries, grant number 84128:
..... $ 462,765
11. For mental health, grant number 93125:
..... $ 105,679
12. For mental health training, grant number 93244:
..... $ 483,849
13. For family support payments to states, grant number 93560:
..... $ 97,264,216
14. For job opportunities and basic skills training, grant number 93561:
..... $ 18,089,007
15. For child support enforcement, grant number 93563:
..... $ 19,176,508
16. For refugee and entrant assistance, grant number 93566:
..... $ 3,787,734
17. For child care development block grant, grant number 93575:
..... $ 8,115,638
18. For developmental disabilities basic support, grant number 93630:
..... $ 780,680
19. For children's justice, grant number 93643:
..... $ 171,347

20. For child welfare services, grant number 93645:
..... $ 4,199,900
21. For crisis nursery, grant number 93656:
..... $ 136,241
22. For foster care Title IV-E, grant number 93658:
..... $ 16,378,702
23. For adoption assistance, grant number 93659:
..... $ 4,092,314
24. For social services block grant, grant number 93667:
..... $ 31,975,889
25. For child abuse basic, grant number 93669:
..... $ 280,024
26. For child abuse challenge, grant number 93672:
..... $ 57,507
27. For development of dependent care, grant number 93673:
..... $ 50,601
28. For Title IV-E independent living, grant number 93674:
..... $ 481,440
29. For sexually transmitted disease control program, grant number 93777:
..... $ 2,387,500
30. For medical assistance, grant number 93778:
..... $ 772,626,577
31. For community mental health services, grant number 93958:
..... $ 2,100,000

Sec. 51. DEPARTMENT OF ECONOMIC DEVELOPMENT. 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, 1994, and ending June 30, 1995, are appropriated to the department of economic development for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.

1. For department of agriculture, grant number 10000:
..... $ 128,580
2. For young adult conservation corps, grant number 10663:
..... $ 750,000
3. For state and local planning, grant number 11305:
..... $ 50,000
4. For procurement office/department of defense, grant number 12600:
..... $ 83,000
5. For community development block grant state program, grant number 14228:
..... $ 32,115,760
6. For national Affordable Housing Act, grant number 14239:
..... $ 10,637,714
7. For department of labor, grant number 17000:
..... $ 408,816
8. For Job Training Partnership Act, grant number 17250:
..... $ 28,280,312
9. For small business administration tree program, grant number 59045:
..... $ 160,000

Sec. 52. STATE DEPARTMENT OF TRANSPORTATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the state department of transportation for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.

1. For airport improvement program — federal aviation administration, grant number 20106:
..... $ 100,000
2. For highway research, plan and construction, grant number 20205:
..... $ 281,014,000
3. For motor carrier safety assistance, grant number 20217:
..... $ 50,000
4. For local rail service assistance, grant number 20308:
..... $ 400,000
5. For urban mass transportation, grant number 20507:
..... $ 2,000,000

Sec. 53. DEPARTMENT OF EDUCATION. Federal grants, receipts, and funds and other nonstate grants, receipts, and funds, available in whole or in part for the fiscal year beginning July 1, 1994, and ending June 30, 1995, are appropriated to the department of education for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amounts for the purposes indicated.

1. For school breakfast program, grant number 10553:
..... $ 1,300,000
2. For school lunch program, grant number 10555:
..... $ 46,500,000
3. For special milk program for children, grant number 10556:
..... $ 200,000
4. For child care food program, grant number 10558:
..... $ 4,100,000
5. For summer food service for children, grant number 10559:
..... $ 300,000
6. For administration expenses for child nutrition, grant number 10560:
..... $ 1,887,921
7. For public telecommunication facilities, grant number 11550:
..... $ 45,000
8. For vocational rehabilitation — state supplementary assistance, grant number 13625:
..... $ 588,317
9. For vocational rehabilitation — FICA, grant number 13802:
..... $ 8,730,100
10. For Job Training Partnership Act, grant number 17250:
..... $ 178,000
11. For mine health and safety, grant number 17600:
..... $ 80,000
12. For veterans education, grant number 64111:
..... $ 183,696
13. For asbestos enforcement program, grant number 66702:
..... $ 14,850
14. For adult education, grant number 84002:
..... $ 2,293,233
15. For bilingual education, grant number 84003:
..... $ 75,000
16. For civil rights, grant number 84004:
..... $ 307,469
17. For education of handicapped children, grant number 84009:
..... $ 600,000
18. For E.C.I.A. — chapter 1, grant number 84010:
..... $ 45,951,194
19. For migrant education, grant number 84011:
..... $ 270,991

20. For educationally deprived children, grant number 84012:
. . . . . $ 415,512
21. For education for neglected — delinquent children, grant number 84013:
. . . . . $ 266,680
22. For handicapped education, grant number 84025:
. . . . . $ 98,000
23. For handicapped — state grants, grant number 84027:
. . . . . $ 24,676,416
24. For handicapped professional preparation, grant number 84029:
. . . . . $ 118,000
25. For public library services, grant number 84034:
. . . . . $ 1,184,117
26. For interlibrary cooperation, grant number 84035:
. . . . . $ 263,812
27. For vocational education — state grants, grant number 84048:
. . . . . $ 9,676,906
28. For vocational education — consumer and homemaking, grant number 84049:
. . . . . $ 32,078
29. For vocational education — state advisory councils, grant number 84053:
. . . . . $ 168,643
30. For national diffusion network, grant number 84073:
. . . . . $ 95,405
31. For rehabilitation services — basic support, grant number 84126:
. . . . . $ 12,859,978
32. For rehabilitation training, grant number 84129:
. . . . . $ 81,723
33. For chapter 2 block grant, grant number 84151:
. . . . . $ 5,086,312
34. For public library construction, grant number 84154:
. . . . . $ 240,000
35. For transition services, grant number 84158:
. . . . . $ 507,559
36. For emergency immigrant education, grant number 84162:
. . . . . $ 33,405
37. For EESA Title II, grant number 84164:
. . . . . $ 1,675,321
38. For independent living project, grant number 84169:
. . . . . $ 194,420
39. For education of handicapped — incentive, grant number 84173:
. . . . . $ 4,337,839
40. For education of handicapped — infants and toddlers, grant number 84181:
. . . . . $ 1,705,171
41. For Byrd scholarship program, grant number 84185:
. . . . . $ 113,950
42. For drug free schools/communities, grant number 84186:
. . . . . $ 4,006,464
43. For supported employment, grant number 84187:
. . . . . $ 268,632
44. For homeless youth and children, grant number 84196:
. . . . . $ 183,607
45. For star schools grant, grant number 84203:
. . . . . $ 1,000,001

46. For even start, grant number 84213:
..... $ 557,824
47. For E.C.I.A. capital expense, grant number 84216:
..... $ 495,884
48. For E.C.I.A. state improvements, grant number 84218:
..... $ 180,000
49. For foreign language assistance, grant number 84249:
..... $ 55,766
50. For literacy resource center, grant number 84254:
..... $ 73,458
51. For AIDS prevention project, grant number 93118:
..... $ 154,738
52. For headstart collaborative grant, grant number 93600:
..... $ 95,850
53. For serve America, grant number 94001:
..... $ 156,657

Sec. 54. COMMISSION OF VETERANS 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, 1994, and ending June 30, 1995, are appropriated to the commission of veterans affairs for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law.

Sec. 55. GOVERNOR'S ALLIANCE ON SUBSTANCE ABUSE. 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, 1994, and ending June 30, 1995, are appropriated to the governor's alliance on substance abuse for the purposes set forth in the grants, receipts, or conditions accompanying the receipt of the funds, unless otherwise provided by law, in the following amount for the purpose indicated.

For narcotics control assistance, grant number 16579:
..... $ 6,500,001

Sec. 56. 1992 Iowa Acts, chapter 1234, section 6, is amended by adding the following new subsection:

NEW SUBSECTION. 3. There is appropriated from the fund created by section 8.41 to the department of economic development for the federal fiscal year beginning October 1, 1992, and ending September 30, 1993, the following amount:
..... $ 28,736,000

Funds appropriated by this subsection are community development block grant funds awarded to the state under public law No. 103-75, Emergency Supplemental Appropriations for Relief From the Major Widespread Flooding in the Midwest Act of 1993. The department of economic development shall expend the funds appropriated by this subsection as provided in the federal law making the funds available and in conformance with chapter 17A. An amount not exceeding 1.8 percent of the funds awarded shall be used by the department for administrative expenses. From the funds set aside for administrative expenses, the department 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 this subsection.

Sec. 57. Sections 16 and 56 of this Act, being deemed of immediate importance, take effect upon enactment.

Sec. 58. RETROACTIVE APPLICABILITY. Section 56 of this Act is retroactively applicable to October 1, 1992, and is applicable on and after that date.

Approved May 11, 1994

CHAPTER 1195

CAPITAL PROJECT FINANCING

S.F. 2326

AN ACT relating to capital project financing through the funding of a capitol complex renovation program and through the issuance of bonds by the state board of regents, including bonds for college education financing, and making a standing appropriation and providing an effective date.

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

DIVISION I

Section 1. NEW SECTION. 18.23 CAPITOL COMPLEX RENOVATION PROGRAM — LEASE-PURCHASE — FUND — APPROPRIATIONS.

1. FINDINGS. The general assembly finds that:

a. The projects contained in the capitol complex renovation program are necessary for the efficient and proper performance of constitutional and statutory duties of state government.

b. Significant moneys are annually spent by the department to rent office facilities for state agencies.

c. The delayed funding of the capitol complex renovation program will significantly increase the total costs of renovation.

d. Section 18.12, subsection 10, provides that the department, after authorization by a constitutional majority of each house of the general assembly and approval by the governor, may enter into lease-purchase contracts for additions or improvements to existing buildings, facilities, and structures for the proper use and benefit of the state and state agencies.

2. LEASE-PURCHASE CONTRACTS. The department may plan, construct, equip, and otherwise carry out the following projects at the state capitol complex, and the general assembly authorizes the department to enter into lease-purchase contracts, not to exceed ten years in duration, for real or personal property to be used for improvements to existing buildings, facilities, and structures as provided in section 18.12, subsection 10, with the use of the areas in the state capitol and the old historical building for projects under this subsection assigned by the legislative council, in consultation with the director and the capitol planning commission, for the use of the general assembly or legislative agencies, pursuant to section 2.43, in a total amount not to exceed twenty-four million seven hundred thousand dollars, allocated as follows:

a. In an amount not to exceed seven million dollars for partial state capitol exterior renovation including, but not limited to, replacement of stone, wood windows, and copper roof, gold leafing of the dome, inspection of dome condition.

b. In an amount not to exceed nine million dollars for state capitol interior renovation including, but not limited to, remodeling of interior, upgrade to meet fire, safety, and building codes, and federal Americans with Disabilities Act requirements, removal of mezzanines which are not original, new electrical, mechanical, heating, fire sprinklers, ventilating and air conditioning, information processing equipment and related software, local and wide area networks, telecommunications facilities, data storage and retrieval systems, and information system conversion, restoration of walls, murals, stained glass, and woodwork. In arranging for the renovation, the department shall use as a major criteria the life cycle cost, as defined in section 18.3, subsection 1, and the energy efficiency of the components of the renovation.

c. In an amount not to exceed eight million seven hundred thousand dollars for the old historical building renovation including, but not limited to, renovation of exterior including new windows, interior renovation to include fire, safety, and building codes, and federal Americans with Disabilities Act requirements, new heating, air conditioning and ventilating, and plumbing, information processing equipment and related software, local and wide area networks, telecommunications facilities, data storage and retrieval systems, and information system conversion. In arranging for the renovation, the department shall use as a major criteria the life

cycle cost, as defined in section 18.3, subsection 1, and the energy efficiency of the components of the renovation.

d. No amount shall be spent on additions to existing buildings.

*3. *FUND — APPROPRIATIONS. There is created in the office of the treasurer of state a temporary fund to be known as the capitol complex renovation fund. There is appropriated from moneys in the fund for the fiscal year beginning July 1, 1995, and subsequent fiscal years the amount needed to pay the fiscal year payments under the lease-purchase contracts entered into pursuant to subsection 2. The fund shall contain moneys deposited into it from the use tax as provided in section 423.24, subsection 2, from appropriations made to the fund, and any other funds deposited into or credited to the fund. Lease-purchase contracts entered into pursuant to subsection 2 shall not exceed ten years in duration and may provide for the pledge of moneys in the capitol complex renovation fund and these moneys, as received and deposited, are immediately subject to the lien and pledge for payments under the lease-purchase contracts without further acts, and the pledge is effective, and these moneys may be applied to the purposes of the pledge without the necessity for a further appropriation of the general assembly. Notwithstanding section 8.33, unobligated and unencumbered moneys on June 30 of a fiscal year shall not revert to any fund but shall remain in the capitol complex renovation fund for expenditure during the following fiscal year.**

**Sec. 2. Section 423.24, subsection 2, Code Supplement 1993, is amended to read as follows:*

2. ~~Twenty~~ For the fiscal year beginning July 1, 1995, and each subsequent fiscal year, 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~~ into the capitol complex renovation fund established in section 18.23, but not to exceed four million two hundred thousand dollars, to be used as provided in that section, and the remaining into *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.**

DIVISION II

Sec. 3. STATE BOARD OF REGENTS BONDING.

1. FINDINGS. The general assembly finds that:

a. 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, Second Session, submitted to the Seventy-fifth General Assembly, Second 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, 1994, and ending June 30, 1996.

b. 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.

c. 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.

d. 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.

e. 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

*Item veto; see message at end of the Act

to exceed 124.494 percent of the total amount authorized for lease-purchase contracts pursuant to section 1, subsection 2 of this Act, the remaining costs of the projects to be financed by appropriations or by federal or other funds lawfully available.

2. APPROVAL — LIMITS.

a. 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 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, Second Session, and the governor.

b. During the fiscal period that commences July 1, 1994, and that ends June 30, 1996, the maximum amount of bonds which the state board of regents expects to issue under chapter 262A, unless additional bonding is authorized, is 124.494 percent of the total amount authorized for lease-purchase contracts pursuant to section 1, subsection 2 of this Act, all or any part of which may be issued during the fiscal year ending June 30, 1995, 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, 1996, and this plan of financing is approved.

3. PROJECTS. 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 the following institutions in a total amount not to exceed 124.494 percent of the total amount authorized for lease-purchase contracts pursuant to section 1, subsection 2 of this Act:

a. Iowa State University of Science and Technology

(1) Livestock units for swine and cattle research — Phase I construction and remodeling:

Of the total amount authorized in this subsection, 10.34 percent

(2) Intensive livestock research facilities — Planning:

Of the total amount authorized in this subsection, 6.89 percent

b. State University of Iowa

Schaeffer Hall remodeling:

Of the total amount authorized in this subsection, 27.64 percent

c. University of Northern Iowa

(1) Wellness Center building construction:

Of the total amount authorized in this subsection, 39.93 percent

(2) Price Laboratory School Gymnasium construction:

Of the total amount authorized in this subsection, 8.68 percent

d. Fire safety and deferred maintenance projects, with an emphasis on safety, at any of the institutions of higher learning under the control of the regents:

Of the total amount authorized in this subsection, 6.52 percent

Total 100 percent

4. BOND AMOUNTS EXCEED COSTS. If the amount of bonds issued under this section exceeds the actual costs of projects approved in this section, the amount of the difference shall be used to pay the principal and interest due on bonds issued under chapter 262A.

5. CAPITALIZATION OF RESERVE FUNDS. The state board of regents may capitalize the bond reserve funds with respect to the bonds authorized pursuant to this section for the University of Northern Iowa, state University of Iowa, and Iowa State University of Science and Technology. However, this authorization for capitalization shall not authorize the state board of regents to increase the amount of bonds issued under this section.

6. CAPITAL APPRECIATION BONDS. The state board of regents shall issue bonds in an amount not exceeding fifty percent of the amount of bonds otherwise authorized pursuant to this section, in the form of capital appreciation bonds as provided in section 262A.6A rather than the form prescribed in sections 262A.5 and 262A.6. The capital appreciation bonds shall be designed to be marketed primarily to Iowans to facilitate savings for future higher education costs.

Sec. 4. EFFECTIVE DATE. Section 2 of this Act takes effect July 1, 1995.

Approved May 10, 1994, except the items which I hereby disapprove and which are designated as Section 1, subsection 3 in its entirety; and Section 2 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Madam Secretary:

I hereby transmit Senate File 2326, an Act relating to capital project financing through the funding of a Capitol complex renovation program and through the issuance of bonds by the State Board of Regents, including bonds for college education financing, and making a standing appropriation and providing an effective date.

Senate File 2326 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Section 1, subsection 3 and Section 2, in their entirety. Section 1, subsection 3 establishes a Capitol Complex Renovation Fund and authorizes payments out of the fund for Capitol renovation projects performed pursuant to lease-purchase contracts. Section 2 appropriates up to $4.2 million per year of use tax dollars to the Capitol complex renovation fund established in Section 1, subsection 3. With the veto of these two sections, the financing necessary to lease-purchase contract for renovation of the Capitol cannot proceed. Section 1, subsection 2, which authorizes lease-purchase contracting for the renovation of the Capitol, is left intact to avoid any impact a veto of that provision might have on the Regents' bonding authorized in Section 3.

By making the amount authorized in section 3 for Regents' bonding a percentage of the amount authorized in Section 1, subsection 2, the legislature has attempted to circumvent the Governor's constitutional authority to veto separate items in an appropriations bill. In tying the items relating to Capitol renovation and Regents' bonding together, the legislature has tried by specific draftsmanship to "coerce" me into either approving both items or disapproving both, but not approving one and disapproving the other. The legislature has never been so bold in its effort to evade the Governor's item veto power, and in so doing, utilizing a drafting strategy the Iowa courts would certainly reject.

In taking the action that I have on Senate File 2326, I have effectively approved the authorization necessary for the Board of Regents to bond for the capital needs of higher education in the amount of $30,750,018. At the same time, I have disapproved funding to finance Capitol renovation projects through lease-purchase contracting. My action today is consistent with my earlier stated position in which I indicated my belief that Capitol renovation projects are more appropriately paid for on a "pay as you go" basis.

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 2326 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1196

APPROPRIATIONS — JUSTICE SYSTEM

H.F. 2350

AN ACT relating to and making appropriations to the justice system for the fiscal year beginning July 1, 1994, and providing effective 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, 1994, and ending June 30, 1995, 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:

..... $	4,752,448
..... 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:

..... $	113,326
..... FTEs	4.00

a. In addition to the funds appropriated in this subsection for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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 attorneys training coordinator shall cooperate and consult with the judicial department, as otherwise provided in this Act, to provide for the education and training of prosecuting attorneys, as defined in section 13A.1, in implementing the recommendations of the equality in the courts task force.

d. The prosecuting attorneys training program shall use a portion of the funds appropriated in this subsection for educating and training prosecuting attorneys, as defined in section 13A.1, in alternative dispute resolution techniques.

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, 1994, and ending June 30, 1995, 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, 1994, and ending June 30, 1995, 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:

..... $ 102,927
..... 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.

9. a. The department of justice, in submitting budget estimates pursuant to section 8.23, shall include a report of funding from sources other than amounts appropriated directly from the general fund of the state to the department of justice or to the office of consumer advocate. These funding sources shall include, but are not limited to, reimbursements from other state agencies, commissions, boards, or similar entities, and reimbursements from special funds or internal accounts within the department of justice. The department of justice shall report actual reimbursements for the fiscal year commencing July 1, 1993, and actual and expected reimbursements for the fiscal year commencing July 1, 1994.

b. The department of justice shall include the report required under paragraph "a", as well as information regarding any revisions occurring as a result of reimbursements actually received or expected at a later date, in a report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau. The department of justice shall submit the report on or before January 15, 1995.

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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,040,396
..... 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, 1994, and ending June 30, 1995, 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:

..... $ 778,747
..... 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 submit a report to the co-chairpersons of the joint appropriations subcommittee on the justice system and the legislative fiscal bureau on or before January 16, 1995, detailing steps taken to implement any of the recommendations, and for those recommendations which have not been implemented, specifying the reasons for failing to implement the recommendations. The report shall include, but is not limited to, copies of all reports submitted to the legislative fiscal bureau pursuant to section 906.5, subsection 2, for the fiscal year commencing July 1, 1994, as well as details pertaining to other steps taken to implement the recommendations contained in the fiscal report prepared by the consultant for the corrections system review task force pertaining to the early parole of nonviolent property offenders.

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, 1995.

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, 1994, and ending June 30, 1995, 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:

..... $ 24,705,497
..... 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:

..... $ 18,498,730
..... FTEs 356.25

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, employment of 159 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	15,478,173
..... FTEs	320.80

d. For the operation of the Newton correctional facility, including salaries, support, maintenance, employment of 44 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	5,293,526
..... 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:

..... $	13,219,851
..... FTEs	258.92

f. For the operation of the Rockwell City correctional facility, including salaries, support, maintenance, employment of 58 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	5,341,798
..... FTEs	112.00

g. For the operation of the Clarinda correctional facility, including salaries, support, maintenance, employment of 68 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	6,308,034
..... FTEs	136.20

h. For the operation of the Mitchellville correctional facility, including salaries, support, maintenance, employment of 71.50 correctional officers, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $	6,081,317
..... FTEs	133.00

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, 1994.

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, 1995, 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, 1995, 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, 1995.

6. In accordance with the financing methods specified in the plan for financing of additional correctional beds at correctional facilities and community-based correctional facilities provided in this Act, the department of corrections shall construct a 750-bed, medium security correctional facility for men, to be located at or near the Clarinda correctional facility. If the construction is financed utilizing either of the financing methods specified in section 19, subsection 2, paragraph "b" or "c", then the maximum cost, not including interest expense, shall not exceed $22,000,000.

7. The department of corrections shall issue a request for proposals for the construction of additional medium security correctional beds for men, to be located at the Newton correctional facility, which would only be constructed if the proposal is accepted. The department of corrections shall include specifications concerning the number of correctional beds in the request for proposals and issue the request for proposals in such a manner that responses are due and shall be included in a report submitted by the department to the general assembly on or before January 9, 1995. The department of corrections shall not accept a proposal received in accordance with this subsection without specific authorization through the enactment of legislation to fund the proposal by the Seventy-sixth General Assembly or a subsequent general assembly.

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, 1994, and ending June 30, 1995, 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:

.....	$	2,223,408
.....	FTEs	38.52

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:

..... $ 381,095

..... FTEs 7.16

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:

..... $ 3,186,995

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, 1994, and ending June 30, 1995, 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:

..... $ 6,226,704

(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:

..... $ 4,791,293

(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:

..... $ 3,114,437

(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:
..... $ 2,316,208

(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:
..... $ 8,401,666

(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, the following amount, or so much thereof as is necessary:
..... $ 6,279,190

(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 shall continue the implementation of a plan providing for the expanded use of intermediate criminal sanctions, as provided in 1993 Iowa Acts, chapter 171, section 6, subsection 1, paragraph "f", subparagraph (3).

(4) Of the funds appropriated in this paragraph, the district department shall use not more than $40,000, to provide for financial arrangements, including entering a lease-purchase agreement, for the relocation of the Cedar Rapids community corrections center.

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:
..... $ 4,229,668

(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:
..... $ 3,627,205

(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, 1995.

9. It is the intent of the general assembly that each judicial district department of correctional services shall operate the community-based correctional facilities in a manner which provides for a residential population of at least 110 percent of the design capacity of the facility.

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, 1994, and ending June 30, 1995, 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, 1994, and maintenance, equipment, and miscellaneous purposes:

..... $ 81,470,924

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 not more than $150,000 of the funds appropriated in this subsection for educational purposes in implementing the recommendations of the equality in the courts task force. The judicial department, in cooperation and consultation with the prosecuting attorneys training coordinator, shall use the funds so appropriated for the education and training of employees of the judicial department and prosecuting attorneys, as defined in section 13A.1.

f. Of the funds appropriated in this subsection, the judicial department shall use not more than $35,000 to reestablish the court appointed special advocate program in Woodbury county.

g. Of the funds appropriated pursuant to this subsection, the judicial department shall use not more than $1,115,000 for increasing the existing capacity of the Iowa court information system by extending the system into additional counties and for the development of a computer software program to allow state agencies to gain access to data in the Iowa court information system. However, the funds shall not be used to expand the applications of the system for purposes other than those for which the system is currently used, and the judicial department shall focus efforts in utilizing the funds referred to in this paragraph upon the collection of delinquent fines, penalties, court costs, fees, surcharges, or similar amounts. Of the funds specified in this paragraph, the judicial department shall use not more than $20,000 for the development of a computer software program to allow state agencies to gain access to data in the Iowa court information system. The judicial department shall investigate the most efficient way to complete the expansion of the department's entire communication and information management system, and include this information in a report to be submitted 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, 1995.

h. It is the intent of the general assembly that the offices of the clerks of the district court 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.

i. The judicial department shall report to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system by February 1, 1995, 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.

j. The judicial department shall use a portion of the funds appropriated in this subsection for educating and training the appropriate court personnel in alternative dispute resolution techniques.

2. For the juvenile victim restitution program:
..... $ 131,663

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, 1994, and ending June 30, 1995, 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. JUDICIAL RETIREMENT FUND. There is appropriated from the general fund of the state to the judicial retirement fund for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the state's contribution to the judicial retirement fund established in section 602.9104, in the amount of 23.7 percent of the basic salaries of the judges covered under chapter 602, article 9:
..... $ 3,150,915

If House File 2418* or Senate File 2251** is not enacted by the Seventy-fifth General Assembly, 1994 Regular Session, in a manner which enacts a new section 602.9104A or other provision to prohibit the deposit of certain court revenues in the judicial retirement fund, then the appropriation provided in this section is reduced by $2,019,682. If Senate File 413*** is not enacted by the Seventy-fifth General Assembly, 1994 Regular Session, in a manner which provides for an increase in certain court costs, fees, fines, penalties, surcharges, forfeited bail, or similar charges collected by the court and the ultimate deposit of at least some of the increase in the general fund of the state, then the appropriation in this section is reduced by $752,000. If both of the contingencies specified in this paragraph occur, the appropriation provided in this section is reduced by $2,771,682. The judicial department shall file a report with the legislative fiscal bureau for each quarter of the fiscal year commencing July 1, 1994, detailing any additional amounts deposited in the general fund of the state as a result of the provisions of Senate File 413,*** if enacted.

Sec. 10. COURT TECHNOLOGY AND MODERNIZATION. If Senate File 413*** or similar legislation is not enacted by the Seventy-fifth General Assembly, second regular session, in a manner which establishes a court technology and modernization fund as a separate fund in the state treasury, with an allocation of $1,000,000 of court revenues to the fund, then there is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For modernization and enhancement of court technology:
..... $ 1,000,000

*Chapter 1183 herein
**Not enacted
***Chapter 1074 herein

1. The judicial department shall use not more than $800,000 of the moneys, if appropriated pursuant to this section, to enhance the ability of the judicial department to process cases more quickly and efficiently, to electronically transmit information to state government, local governments, law enforcement agencies, and the public, and to improve public access to the court system. The moneys specified in this subsection shall not be used for the Iowa court information system.

2. The judicial department shall use not more than $200,000 of the moneys, if appropriated pursuant to this section, in equal amounts to facilitate alternative dispute resolution and methods to resolve domestic abuse cases, which may include personnel for hearings under section 236.4.

Sec. 11. 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, 1995.

Sec. 12. PLACEMENTS FOR ELDERLY, MENTALLY ILL, MENTALLY RETARDED, 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, mentally ill, mentally retarded, 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 identify those inmates who are ineligible for parole in the near future, but who would otherwise qualify for community-based placements under this section, and shall issue a request for proposals on or before November 1, 1994, from private institutions which would be able to accept transfers of such inmates in accordance with section 904.503. In preparing the request for proposals, the department shall include relevant information concerning the availability of funding sources to assist in the payment of services for such inmates. 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, 1995.

Sec. 13. CORRECTIONAL INSTITUTIONS — VOCATIONAL TRAINING. The state prison industries board and the department of corrections shall continue the implementation of a plan to enhance vocational training opportunities within the correctional institutions listed in section 904.102, as provided in 1993 Iowa Acts, chapter 171, section 12. 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. The department of corrections shall provide a report concerning the implementation of the plan 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, 1995.

Sec. 14. MONEYS RECOVERED THROUGH COURT-APPOINTED RECEIVER – NON-REVERSION – USES OF FUNDS.

1. As used in this section, unless the context otherwise requires, "recovered funds" means moneys which were appropriated to the department of corrections in previous fiscal years for the purposes of the judicial district departments of correctional services, which have been recovered in the fiscal year commencing July 1, 1993, as a result of the actions of the court-appointed receiver in litigation pertaining to the Iowa trust matter, and which would otherwise be deposited in the general fund of the state.

2. Notwithstanding any other provision of law to the contrary, recovered funds shall not revert to the general fund of the state at the end of the fiscal year commencing July 1, 1993, but shall be available to and transferred by the department of corrections, in the manner and in the amounts specified in subsection 3. Recovered funds shall be deemed dedicated to the purposes specified in this section, rather than the original purposes for which the moneys were appropriated.

3. Notwithstanding any other provision of law to the contrary, the department of corrections shall transfer and remit recovered funds as follows:

a. The department of corrections shall make available $150,000 of the recovered funds to the first judicial district department of correctional services, for use in the fiscal year commencing July 1, 1994, to pay for the construction of 8 additional community-based corrections residential beds at the West Union community-based correctional facility.

b. The department of corrections shall transfer $148,500 to the second judicial district department of correctional services, for use in the fiscal year commencing July 1, 1994, to make the financial arrangements necessary to relocate the Marshalltown community-based correctional facility, and to increase the number of community-based corrections residential beds at the relocated facility, from the current 24 residential beds to 40 residential beds. The second judicial district department of correctional services shall use the recovered funds transferred by this paragraph to pay the initial costs connected with the relocation and construction project, including but not limited to, architectural fees, costs associated with obtaining lease-purchase financing, and additional equipment needs.

c. The department of corrections shall remit the additional recovered funds not otherwise transferred or made available in this subsection to the treasurer of state, the recovered funds shall be available to the judicial department, and the treasurer of state shall transfer and distribute the recovered funds to the judicial department for use in the fiscal year commencing July 1, 1994. The judicial department shall use the recovered funds for the purposes specified, and subject to the limitations enumerated, in section 7, subsection 1 of this Act, and the amounts available to the judicial department through the use of recovered funds shall be in addition to any moneys otherwise appropriated in this Act.

4. The department of corrections, the first and second judicial district departments of correctional services, and the judicial department shall use recovered funds for the purposes specified in this section in the fiscal year commencing July 1, 1994, and any funds which are unexpended at the end of the fiscal year commencing July 1, 1994, shall revert to the general fund of the state.

Sec. 15. APPROPRIATIONS TO THE DEPARTMENT OF CORRECTIONS – MONEYS ENCUMBERED – PRIORITIES.

1. Notwithstanding any other provision of law to the contrary, moneys appropriated to the department of corrections pursuant to 1993 Iowa Acts, chapter 171, sections 4, 5, and 6, shall be considered encumbered pursuant to section 8.33, and shall not revert to the general fund of the state at the end of the fiscal year commencing July 1, 1993. As used in this section, unless the context otherwise requires, "encumbered funds" means the moneys appropriated to the department of corrections pursuant to 1993 Iowa Acts, chapter 171, sections 4, 5, and 6, which would otherwise revert to the general fund of the state after the end of the fiscal year in which the moneys were appropriated, but for the prohibition contained in this section.

2. The department of corrections shall use encumbered funds in the fiscal year commencing July 1, 1994, to fund up to an additional 50 FTEs for the employment of correctional officers in the correctional institutions specified in section 904.102, and to purchase critically needed safety equipment, including but not limited to radios, emergency notification equipment, surveillance cameras, and other necessary surveillance and emergency response equipment, for use in correctional institutions. The FTEs provided in this section for the employment of correctional officers and the funding provided for the purchase of equipment are in addition to any FTEs or equipment funded in section 4 of this Act. The department of corrections shall use its discretion in distributing the additional correctional officers and equipment throughout the correctional facilities. The department of corrections shall file a report with the department of management concerning correctional officer positions filled and critically needed safety equipment purchased from encumbered funds provided under this section. If the department is able to fund an additional 50 FTEs for the employment of correctional officers pursuant to this section and to purchase all critically needed safety equipment, any remaining funds shall be unencumbered and shall revert to the general fund of the state at the end of the fiscal year commencing July 1, 1994.

Sec. 16. STATE AGENCY PURCHASES FROM PRISON INDUSTRIES.

1. As used in this section, unless the context otherwise requires, "state agency" means the government of the state of Iowa, including but not limited to all executive departments, agencies, boards, bureaus, and commissions, the judicial department, the general assembly and all legislative agencies, institutions within the purview of the state board of regents, and any corporation whose primary function is to act as an instrumentality of the state.

2. State agencies are hereby encouraged to purchase products from Iowa state industries, as defined in section 904.802, when purchases are required and the products are available from Iowa state industries.

Sec. 17. INDIGENT DEFENSE COSTS. The supreme court shall submit a written report for the preceding fiscal year no later than January 1 of each year indicating the amounts collected pursuant to section 815.9A, relating to recovery of indigent defense costs. The report shall include the total amount collected by all courts, as well as the amounts collected by each judicial district. The supreme court shall also submit a written report quarterly indicating the number of criminal and juvenile filings which occur in each judicial district for purposes of estimating indigent defense costs. A copy of each report shall be provided to the public defender, the department of management, and the legislative fiscal bureau.

Sec. 18. SENTENCING STUDY. The legislative council is requested to establish an interim study committee to review current criminal penalties and sentencing practices, including but not limited to the effects of mandatory minimum penalties on sentencing practices and the effects of sentencing practices on inmate populations at state and adult and residential community-based correctional facilities. The committee shall also conduct a comparative assessment of the relative penalties imposed for various crimes based not only on the threat posed by the prohibited criminal conduct, but also by the risk generally associated with particular criminal offenders.

Sec. 19. PLAN FOR FINANCING OF ADDITIONAL CORRECTIONAL BEDS AT CORRECTIONAL FACILITIES AND COMMUNITY-BASED CORRECTIONAL FACILITIES.

1. Except for those projects authorized in the section of this Act utilizing moneys recovered through the court-appointed receiver in the Iowa trust matter for construction of additional community-based residential beds in the first and second judicial district departments of correctional services and those projects for which at least partial funding is appropriated in this Act for the fiscal year beginning July 1, 1994, the department of corrections shall not proceed with any plans for the construction or lease of additional correctional beds at correctional facilities and community-based corrections residential facilities unless the beds are financed in accordance with this section. If the general assembly authorizes the construction or lease of

additional correctional beds pursuant to this Act, such action shall constitute a declaration by the general assembly that additional correctional beds and the financing specified in this section serve the public purpose and are essential governmental functions that promote the general welfare of the citizens of the state of Iowa.

2. Pursuant to the guidelines established in this subsection, the treasurer of state shall determine which of the financing methods specified in this subsection shall be used for funding any additional correctional beds authorized pursuant to this Act.

a. If the treasurer of state determines that bonds can be issued in accordance with sections 16.177 and 602.8108A, then the bonding method specified in those sections shall be used to fund any additional correctional beds provided in this Act.

b. If the treasurer of state determines that bonds cannot be issued in accordance with sections 16.177 and 602.8108A, then the treasurer of state shall inform the department of corrections in writing that bonds shall not be issued, and the department of corrections shall proceed in accordance with this paragraph. If the general assembly authorizes additional correctional beds pursuant to this Act, and the treasurer of state informs the department of corrections that bonds cannot be issued, the department of corrections shall enter into financial arrangements with the department of general services pursuant to section 18.12 to fund the construction of any additional correctional beds authorized in this Act, with an initial payment under the financial arrangements that is not due until on or after July 1, 1995.

c. (1) If a separate provision of this Act authorizes the construction of a 750-bed, medium security correctional facility for men, to be located at or near the Clarinda correctional facility, the treasurer of state shall, within thirty days of the enactment of this Act, analyze whether the financing method specified in paragraph "a" or "b" of this subsection provides for financing the project in a manner which is less expensive to the state than the method specified in subparagraph (2) of this paragraph. The treasurer of state shall report the findings of the analysis to the department of corrections. If the manner specified in paragraph "a" or "b" is found by the treasurer of state to be less expensive and a separate provision of this Act authorizes the construction, the construction shall be financed as provided in paragraph "a" or "b". However, if the construction financing is less expensive pursuant to subparagraph (2) of this paragraph and a separate provision of this Act authorizes the construction, the construction shall proceed in the manner specified in subparagraph (2).

(2) If a separate provision of this Act authorizes the construction of a 750-bed, medium security correctional facility for men, to be located at or near the Clarinda correctional facility, and the treasurer of state determines pursuant to subparagraph (1) that financing is less expensive pursuant to this subparagraph, then notwithstanding any other provision of law to the contrary or any provision providing for an alternative or independent method of establishing a correctional facility, the department of corrections may establish a correctional facility pursuant to this subparagraph and the separate provision of this Act authorizing the construction. The department of human services may lease unimproved real property located near the state mental health institute at Clarinda to a person or entity that is leasing the property for the purpose of constructing a 750-bed, medium security correctional facility. The department of corrections may enter into a lease or lease-purchase agreement, to lease the newly constructed correctional facility from the person or entity leasing the real property from the department of human services. Notwithstanding any other provision of law to the contrary, a party to a lease or lease-purchase agreement entered into pursuant to this subparagraph shall not be required to publish any notice or proceed with any other or further proceedings with respect to the lease or lease-purchase agreement, except as otherwise provided in this subparagraph. Any lease entered into in accordance with this subparagraph shall specify the duration of the lease and any possible extensions, as well as whether a purchase option is included. The department of corrections may enter into a lease agreement pursuant to this subparagraph for an original term of one year, or for an original term of a different duration. However, if the original term is for one year, the lease agreement shall provide automatic one-year extensions of the term, and such automatic extensions shall occur unless

legislation is enacted prior to the expiration of the original term or the applicable extension which directs the department of corrections to terminate the lease.

3. If a provision of this Act provides for the construction or lease of additional correctional beds located at or near the Clarinda correctional facility or the state mental health institute at Clarinda, with financing provided as specified in subsection 2, paragraph "a" or "b" of this section, the treasurer of state and the auditor of state, in cooperation and consultation with each other, shall review the development costs incurred by Clarinda Heartland, Inc., and determine which development costs are necessary and appropriate. Those development costs approved by the treasurer of state and the auditor of state shall be paid through the financing method authorized pursuant to subsection 2, paragraph "a" or "b" of this section. However, costs associated with lobbying on behalf of Clarinda Heartland, Inc. shall not be authorized for payment through the financing method authorized pursuant to subsection 2, paragraph "a" or "b" of this section.

Sec. 20. NEW SECTION. 16.177 PRISON INFRASTRUCTURE REVENUE BONDS.

1. The authority is authorized to issue its bonds to provide prison infrastructure financing as provided in this section. The bonds may only be issued to finance projects which have been approved for financing by the general assembly. Bonds may be issued in order to fund the construction and equipping of a project or projects, the payment of interest on the bonds, the establishment of reserves to secure the bonds, the costs of issuance of the bonds and other expenditures incident to or necessary or convenient to carry out the bond issue. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

2. The department of corrections is authorized to pledge amounts in the Iowa prison infrastructure fund established under section 602.8108A as security for the payment of the principal of, premium, if any, and interest on the bonds. Bonds issued under this section are payable solely and only out of the moneys, assets, or revenues of the fund, all of which may be deposited with trustees or depositories in accordance with bond or security documents, and are not an indebtedness of this state or the authority, or a charge against the general credit or general fund of the state or the authority, and the state shall not be liable for the bonds except from amounts on deposit in the fund. Bonds issued under this section shall contain a statement that the bonds do not constitute an indebtedness of the state or the authority.

3. The proceeds of bonds issued by the authority and not required for immediate disbursement may be deposited with a trustee or depository as provided in the bond documents and invested in any investment approved by the authority and specified in the trust indenture, resolution, or other instrument pursuant to which the bonds are issued without regard to any limitation otherwise provided by law.

4. The bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be subject to such other terms and conditions as prescribed in the trust indenture, resolution, or other instrument authorizing their issuance.

b. Negotiable instruments under the laws of the state and may be sold at prices, at public or private sale, and in a manner, as prescribed by the authority. Chapters 73A, 74, 74A, and 75 do not apply to their sale or issuance of the bonds.

c. Subject to the terms, conditions, and convenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this chapter and as determined by the trust indenture, resolution, or other instrument authorizing their issuance.

5. The bonds are securities in which public officers and bodies of this state, political subdivisions of this state, insurance companies and associations and other persons carrying on an insurance business, banks, trust companies, savings associations, savings and loan associations, and investment companies, administrators, guardians, executors, trustees, and other fiduciaries, and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Bonds must be authorized by a trust indenture, resolution, or other instrument of the authority. However, a trust indenture, resolution, or other instrument authorizing the issuance of bonds may delegate to an officer of the issuer the power to negotiate and fix the details of an issue of bonds.

7. Neither the resolution or trust agreement, nor any other instrument by which a pledge is created is required to be recorded or filed under the uniform commercial code to be valid, binding, or effective.

8. Bonds issued under this section are declared to be issued for an essential public and governmental purpose and all bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the bonds shall be exempt from the state income tax and the state inheritance and estate tax.

9. The authority shall cooperate with the department of corrections in the implementation of this section.

10. Notwithstanding any other provision of law to the contrary, competitive bidding shall not be required for the construction of facilities financed by bonds issued pursuant to this section.

Sec. 21. NEW SECTION. 602.8108A PRISON INFRASTRUCTURE FUND.

1. The Iowa prison infrastructure fund is created and established as a separate and distinct fund in the state treasury. Notwithstanding any other provision of this chapter to the contrary, the first four million dollars of moneys remitted to the treasurer of state from fines, fees, costs, and forfeited bail collected by the clerks of the district court in criminal cases, including those collected for both scheduled and nonscheduled violations, collected in each fiscal year commencing with the fiscal year beginning July 1, 1995, shall be deposited in the fund. Interest and other income earned by the fund shall be deposited in the fund. If the treasurer of state determines pursuant to this Act that bonds can be issued pursuant to this section and section 16.177, then the moneys in the fund are appropriated to and for the purpose of paying the principal of, premium, if any, and interest on bonds issued by the Iowa finance authority under section 16.177. Except as otherwise provided in subsection 2, amounts in the funds shall not be subject to appropriation for any purpose by the general assembly, but shall be used only for the purposes set forth in this section. The treasurer of state shall act as custodian of the fund and disburse amounts contained in it as directed by the department of corrections including the automatic disbursement of funds pursuant to the terms of bond indentures and documents and security provisions to trustees and custodians. The treasurer of state is authorized to invest the funds deposited in the fund subject to any limitations contained in any applicable bond proceedings. Any amounts remaining in the fund at the end of each fiscal year shall be transferred to the general fund.

2. If the treasurer of state determines that bonds cannot be issued pursuant to this section and section 16.177, the treasurer of state shall deposit the moneys in the prison infrastructure fund into the general fund of the state.

Sec. 22. Section 607A.5, Code 1993, is amended to read as follows:

607A.5 AUTOMATIC EXCUSE FROM JURY SERVICE.

A person shall be excused from jury service if the person submits written documentation verifying, to the court's satisfaction, that the person is solely responsible for the daily care of a permanently disabled person living in the person's household and that the performance of juror service would cause substantial risk of injury to the health of the disabled person, or that the person is the mother of a breastfed child and is responsible for the daily care of the child. However, if the person is regularly employed at a location other than the person's household, the person shall not be excused under this section.

Sec. 23. 1993 Iowa Acts, chapter 171, section 11, subsection 4, is amended to read as follows:

4. The task force shall submit the plan to the governor and the general assembly on or before ~~June 30, 1994~~ January 15, 1995.

Sec. 24. 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. Section 14 of this Act, pertaining to the nonreversion, transfer, and distribution of certain moneys recovered by a court-appointed receiver, being deemed of immediate importance, takes effect upon enactment.

3. Section 15 of this Act, pertaining to the encumbrance of certain moneys appropriated to the department of corrections in the fiscal year commencing July 1, 1993, being deemed of immediate importance, takes effect upon enactment.

4. Section 23 of this Act, relating to the date for submission of a plan by the intermediate criminal sanctions task force, being deemed of immediate importance, takes effect upon enactment.

Approved May 12, 1994

CHAPTER 1197

APPROPRIATIONS – CLAIMS AGAINST THE STATE

H.F. 2433

AN ACT making an appropriation from the general fund of the state to certain persons in settlement of claims against the state of Iowa.

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

Section 1. There is appropriated from the general fund of the state to the following person the amount set opposite the person's name in full settlement of the claim, filed by the person in the amount of $2,315.08 for payment of vacation time, which the person has against the state of Iowa:

Claimant's Name	Claim No.	Nature of Claim	Amount
John H. Ekern	G91-1927	Vacation payment	$2,315.08

Sec. 2. There is appropriated from the general fund of the state to the following person the amount set opposite the person's name in full settlement of the claim, filed by the person in the amount of $1,056.25 for payment of travel expenses, which the person has against the state of Iowa:

Claimant's Name	Claim No.	Nature of Claim	Amount
Marge Petty	G92-1037	Travel expenses	$1,056.25

Sec. 3. The general assembly disapproves of all other claims submitted and considered by the joint appropriations subcommittee on claims as of April 14, 1994.

Approved May 13, 1994

CHAPTER 1198

APPROPRIATIONS — AGRICULTURE AND NATURAL RESOURCES
S.F. 2314

AN ACT relating to appropriations and revenue involving agriculture and natural resources, making related statutory changes, and providing fees and 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, 1994, and ending June 30, 1995, 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, and for the salaries and support of not more than the following full-time equivalent positions:

..... $ 1,892,481
..... FTEs 47.45

(1) Of the funds appropriated in this paragraph "a", $316,000 and 7.00 FTEs shall be used to support horticulture.

(2) Of the amount appropriated in this paragraph "a", $50,000 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.

(3) Of the amount appropriated in this paragraph "a", $129,000 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.

(4) Of the amount appropriated in this paragraph "a", $500 shall be allocated as state aid to support the north Iowa poultry expo.

(5) Of the amount appropriated in this paragraph "a", not more than $5,000 shall be allocated to the Iowa junior angus association for the development of a commemorative pin in connection with the 1994 angus junior national show.

b. For the operations of the dairy trade practices bureau:

..... $ 70,719

c. For the purpose of performing commercial feed audits:

..... $ 59,834

d. For the purpose of performing fertilizer audits:

..... $ 59,834

2. REGULATORY DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,715,675
..... FTEs 122.50

Of the moneys appropriated and the FTEs allocated pursuant to this lettered paragraph, an additional $15,500 and 1.5 additional FTEs shall be allocated for purposes of supporting meat and poultry inspections as provided in chapter 189A.

b. To cover the costs of inspection, sampling, analysis, and other expenses necessary for the administration of chapters 192, 194, and 195:

..... $ 639,622

3. LABORATORY DIVISION

a. For salaries, support, maintenance, and miscellaneous purposes, including the administration of the gypsy moth program, and for not more than the following full-time equivalent positions:

..... $ 777,271

..... FTEs 76.10

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.

Of the amount appropriated under this paragraph "a", $160,000 shall be allocated from the appropriation to Iowa state university for purposes of training commercial pesticide applicators.

b. For the operations of the commercial feed programs:

..... $ 728,934

c. For the operations of the pesticide programs:

..... $ 1,201,261

d. For the operations of the fertilizer programs:

..... $ 621,257

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:

..... $ 5,146,655

..... FTEs 159.30

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, 1998, from moneys appropriated in paragraph "b" for the fiscal year beginning July 1, 1994, shall revert to the general fund on August 31, 1998.

Sec. 2. LEVEE RECONSTRUCTION.

1. To the extent that moneys are available or appropriated for the fiscal year beginning July 1, 1994, and ending June 30, 1995, to support the purposes of this section, the division of soil conservation of the department of agriculture and land stewardship shall provide financial incentives for soil conservation practices for the purposes of providing assistance in repairing and reconstructing levees.

2. The commissioners of each district receiving moneys shall use the moneys to assist persons in reconstructing or repairing levees damaged by floods occurring during 1993. The following conditions shall apply:

a. The division shall award the moneys based upon applications for specific projects submitted by the districts.

b. The moneys shall be awarded on a cost-share basis. A person shall not receive more than 40 percent of the total cost of repair or reconstruction.

c. Moneys shall not be used to support a project, if other state or federal moneys have been contributed to support the project.

d. Moneys shall only be used to support a project which restores a levee to its condition prior to the flood damage. However, moneys may support improvements which are incidental to the repairs or reconstruction.

e. A person shall not be eligible to receive assistance under this section, 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 corporation, family farm limited partnership, family trust, or family farm limited liability company, as defined in section 9H.1.

3. Notwithstanding section 8.33, moneys appropriated for purposes of carrying out this section which are unencumbered or unobligated on June 30, 1995, shall be credited to the conservation practices revolving loan fund created pursuant to section 161A.71.

Sec. 3. 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, 1994, and ending June 30, 1995, 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:

..... $ 188,750
..... FTEs 1.00

Sec. 4. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For support of the pseudorabies eradication program:

..... $ 900,100

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. 5. HORSE AND DOG RACING. 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, 1994, and ending June 30, 1995, 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:

..... $ 185,964

Sec. 6. INTERSTATE COMPACT ON AGRICULTURAL GRAIN MARKETING. There is appropriated from the general fund of the state to the interstate agricultural grain marketing commission for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 78,000

DEPARTMENT OF NATURAL RESOURCES

Sec. 7. 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, 1994, and ending June 30, 1995, 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:

..... $ 1,827,012
..... FTEs 115.50

2. PARKS AND PRESERVES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 5,365,960
..... FTEs 195.73

3. FORESTS AND FORESTRY DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,426,916
..... 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:

..... $ 1,651,984
..... FTEs 52.00

5. ENVIRONMENTAL PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 1,922,940
..... FTEs 176.00

b. Of the amount appropriated in paragraph "a", $404,000 shall be allocated to the administration account of the water quality protection fund established pursuant to section 455B.183A as enacted in this Act. Of the number of FTEs authorized pursuant to paragraph "a", 15.00 additional FTEs shall be dedicated to carrying out the provisions of chapter 455B relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act and to support the program to assist supply systems as provided in section 455B.183B. However, limitations on full-time equivalent positions provided in paragraph "a" of this subsection shall not limit the number of additional full-time equivalent positions supported by moneys deposited in the water quality protection fund as provided in section 455B.183A, as enacted in this Act, in order to carry out the provisions of division III of chapter 455B relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act, and the administration of the program to assist supply systems pursuant to section 455B.183B as enacted in this Act.

c. In administering the program to assist supply systems pursuant to section 455B.183B, as enacted in this Act, the department shall develop public-private partnerships as described in that section, in order to provide technical assistance and vulnerability and viability studies. In providing assistance under this paragraph, the department shall provide priority to systems serving a population of seven thousand or less. At least two FTEs shall be allocated to provide assistance to systems serving a population of seven thousand or less.

6. FISH AND WILDLIFE DIVISION
For not more than the following full-time equivalent positions:
..... FTEs 338.93
7. WASTE MANAGEMENT ASSISTANCE DIVISION
For not more than the following full-time equivalent positions:
..... FTEs 16.75

Sec. 8. 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, 1994, and ending June 30, 1995, 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:
..... $ 20,420,670

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. 9. MARINE FUEL TAX RECEIPTS – 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, 1994, and ending June 30, 1995, 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, 1995, from moneys appropriated in subsection 1, may be expended during the fiscal year beginning July 1, 1995, and ending June 30, 1996, and shall not revert to the general fund until August 31, 1996.

Sec. 10. SNOWMOBILE FEES – TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1994, 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, 1994, and ending June 30, 1995, 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. 11. VESSEL FEES – TRANSFER FOR ENFORCEMENT PURPOSES. There is transferred on July 1, 1994, 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, 1994, and ending June 30, 1995, 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:
..... $ 1,571,590
Of the amount transferred in this section, $371,590 shall be used to purchase additional equipment used for the enforcement of navigation laws and water safety.

RESOURCES 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, 1994, and ending June 30, 1995, the sum of $7,000,000, of which all moneys shall be allocated as provided in section 455A.19.

ANIMAL INDUSTRY APPROPRIATIONS

Sec. 13. LIVESTOCK PRODUCERS ASSISTANCE.

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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the administration of the livestock producers assistance program established pursuant to section 266.39D, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:
..... $ 200,000
..... FTEs 8.28

2. As a condition of this appropriation, the university shall strive to ensure that the program becomes increasingly self-sufficient. The university shall adopt a plan detailing the manner in which the program will become self-sufficient, including the expected amount of state funds necessary to support the program until it becomes self-sufficient, the sources of revenue expected to contribute to the program, and the amount each source is expected to contribute to the program. The plan shall be submitted to the legislative fiscal bureau by November 1, 1994.

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, 1998, from moneys appropriated in this section for the fiscal year beginning July 1, 1994, shall revert to the general fund on August 31, 1998.

Sec. 14. ORGANIC NUTRIENT MANAGEMENT.

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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit in the organic nutrient management fund for administration of the organic nutrient management program, as provided in section 161C.6:
..... $ 800,000

2. Notwithstanding section 161C.5, unencumbered or unobligated moneys remaining on June 30, 1998, from moneys appropriated in this section for the fiscal year beginning July 1, 1994, shall revert to the general fund on August 31, 1998.

3. The department shall transfer moneys appropriated to the organic nutrient management account created pursuant to 1993 Iowa Acts, chapter 176, section 14, to the organic nutrient management fund as established pursuant to this Act. The department shall eliminate the account.

RELATED APPROPRIATIONS

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, 1994, and ending June 30, 1995, 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:

..... $ 75,000

Sec. 16. TRANSFER — AIR QUALITY. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, the department of natural resources may transfer up to $281,000 from the hazardous substance remedial fund to support purposes related to carrying out the duties of the commission under section 455B.133, or the director under section 455B.134, or for carrying out the provisions of chapter 455B, division II.

MISCELLANEOUS

Sec. 17. DEPARTMENTAL STUDY — COMMERCIAL WEIGHING AND MEASURING DEVICES. The department of agriculture and land stewardship shall study its licensing structure for the inspection of commercial weighing and measuring devices, including fees required to be paid by licensees pursuant to section 214.3. The department shall examine the relationship between fees and the costs incurred in administration, regulation, and enforcement of provisions relating to the licensing of the devices. The department shall submit a report, including findings and recommendations, to the governor and the general assembly by January 9, 1995.

Sec. 18. 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. 19. WIND EROSION CONTROL FUND. The department of agriculture and land stewardship shall use all unencumbered or unobligated moneys appropriated to the wind erosion control fund, and any moneys which have been credited to the division of soil conservation of the department of agriculture and land stewardship for purposes of planting and maintaining wind erosion control barriers, as originally provided in 1978 Iowa Acts, chapter 1108, section 7, and subsequently amended, in order to carry out the original purposes. The department shall submit a report to the secretary of the senate and chief clerk of the house not later than January 2, 1995. The report shall explain actual and planned expenditures of the moneys.

Sec. 20. TRUST FUND INFORMATION. The department of revenue and finance in cooperation with each appropriate agency shall track receipts to the general fund 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, as provided in section 8.60.

The department of revenue and finance and each appropriate agency 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. 21. STUDY REQUESTED. The legislative council is requested to establish a study committee to examine animal agriculture in this state, and its impact upon the environment and nonagricultural uses of land.

Sec. 22. 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, 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. 23. 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. 24. AIR QUALITY STANDARDS. During the fiscal year for which funds are appropriated to the department of natural resources under this Act, the department 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 section 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.

Sec. 25. AIR QUALITY PROGRAM – NONGENERAL FUND SUPPORT. The department of natural resources for the fiscal year beginning July 1, 1994, and ending June 30, 1995, shall not use moneys appropriated from the general fund of the state pursuant to this Act, to support any purpose related to carrying out the duties of the commission under section 455B.133 or the director under section 455B.134, or for carrying out the provisions of chapter 455B, division II.

Notwithstanding section 455B.133B, the department may use moneys deposited in the air contaminant source fund created in section 455B.133B during the fiscal year for any purpose related to carrying out the duties of the commission under section 455B.133 or the director under section 455B.134, or for carrying out the provisions of chapter 455B, division II.

**Sec. 26. MORATORIUM – LEASE-PURCHASE CONTRACTS. The department of agriculture and land stewardship or the department of natural resources shall not become a party to a lease-purchase contract for the purchase of property acquired by the department for the period beginning July 1, 1994, and ending June 30, 1995. A person, including the department of general services, shall not be a party to a lease-purchase contract for the purchase of property on behalf of either department for that same period. This section shall not alter the obligations of a party to a lease-purchase contract executed prior to the effective date of this Act. The department of agriculture and land stewardship, the department of natural*

*Item veto; see message at end of the Act

*resources, or a person acting on behalf of either department, shall not extend the terms of any existing lease-purchase contract which would expire on or before the effective date of this Act.**

Sec. 27. LEASE-PURCHASE — BUDGET SUBMISSION. This section applies to each state agency receiving an appropriation in this Act. The departmental estimate required under section 8.23 for the fiscal period beginning July 1, 1995, which includes the state agency, shall provide an itemized list indicating the nature and amount of each lease-purchase contract payment included in the estimate for proposed contracts which have not been reported by the state agency to the legislative fiscal committee of the legislative council pursuant to section 8.46 prior to the submission of the estimate. The governor shall include in the governor's budget for the fiscal year beginning July 1, 1995, a listing indicating the nature and amount of each lease-purchase contract which was itemized in a departmental estimate in accordance with this section and is included in the governor's budget. A state agency receiving an appropriation in this Act shall not enter into a lease-purchase contract during the fiscal year beginning July 1, 1995, unless the contract was itemized in a departmental estimate and included in the governor's budget in accordance with this section.

Sec. 28. SOIL CONSERVATION ASSISTANCE. There is appropriated from the unobligated and unencumbered moneys deposited or required to be deposited in the water protection practices account of the water protection fund established in section 161C.4 to the division of soil conservation within the department of agriculture and land stewardship for the fiscal period beginning July 1, 1993, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the purpose of providing interest-free loans to persons who receive assistance from the United States department of agriculture under the emergency conservation program:

..... $ 500,000

The loans shall be made in order to provide any matching moneys required to be contributed by a person receiving assistance under the federal program. The division shall seek to cooperate with the soil conservation service in implementing this section. The moneys must be repaid to the water protection practices account within five years from the date that the moneys are loaned. Moneys which are unobligated or unencumbered on June 30, 1995, shall be credited back to the account. In administering these moneys, the department may contract, sue, and be sued, and adopt rules necessary to carry out the provisions of this section. However, the division shall not in any manner directly or indirectly pledge the credit of this state.

Sec. 29. RULES REQUIRED — PESTICIDE AND FERTILIZER CONTAMINATED SITES. By December 31, 1994, the environmental protection commission shall adopt rules as provided in chapter 17A and required pursuant to section 455B.601, including rules to establish criteria for the classification and prioritization of sites upon which pesticide and fertilizer contamination has been discovered.

STATUTORY CHANGES

Sec. 30. 1987 Iowa Acts, chapter 233, section 204, subsection 5, as amended by 1989 Iowa Acts, chapter 311, section 21, as amended by 1990 Iowa Acts, chapter 1260, section 20, is amended to read as follows:

5. It is the intention of the general assembly in adopting the appropriation under subsection 1 and this subsection to cease funding for the department's implementation of the federal Resource Conservation and Recovery Act permit program for hazardous waste facilities in this state. Section 455B.411, subsections 6, 9, and 10, section 455B.412, subsections 2 through 4, and sections 455B.413 through 455B.421 are suspended and do not apply as they pertain to that permit program, but are not suspended and do apply as they pertain to abandoned and uncontrolled sites, used oil, and site licensing under chapter 455B, division IV, part 6. The suspension provided by this subsection begins July 1, 1987 and ends June 30, ~~1994~~ 1999.

Sec. 31. 1993 Iowa Acts, chapter 176, section 25, subsection 2, is amended to read as follows:

*Item veto; see message at end of the Act

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~~ period beginning July 1, 1993, and ending June 30, ~~1994~~ 1995, and shall not revert to the general fund until August 31, ~~1994~~ 1995.

Sec. 32. Section 159.29, subsection 2, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An owner of an agricultural drainage well and a landholder whose land is drained by the well or wells of another person shall develop, in consultation with the department of agriculture and land stewardship and the department of natural resources, a plan which proposes alternatives to the use of agricultural drainage wells by July 1, ~~1994~~ 1996.

Sec. 33. NEW SECTION. 161C.5 ORGANIC NUTRIENT MANAGEMENT FUND.

1. An organic nutrient management fund is created in the state treasury under the control of the division. The fund is composed of moneys appropriated by the general assembly, and moneys available to and obtained or accepted by the division or the state soil conservation committee, from the United States or private sources for placement in the fund.

2. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants by the director of revenue and finance, drawn upon the written requisition of the division.

3. The fund shall be used to support the organic nutrient management program provided in section 161C.6. Moneys shall be used to provide financial incentives under the program and to pay for expenses incurred by the division in administering the program. Not more than two percent of the moneys shall be used to pay for administering the program. Moneys expended for financial incentives shall be allocated on a cost-share basis. The division may adopt rules to administer this section.

4. The division shall not in any manner directly or indirectly pledge the credit of the state.

5. Section 8.33 shall not apply to moneys in the fund. Moneys earned as income, including as interest, from the fund shall remain in the fund until expended as provided in this section.

Sec. 34. NEW SECTION. 161C.6 ORGANIC NUTRIENT MANAGEMENT PROGRAM.

1. The division shall establish an organic nutrient management program as provided by rules which shall be adopted by the division. The program shall be supported from moneys deposited in the organic nutrient management fund.

2. a. The program shall provide financial incentives to establish livestock manure management systems to facilitate the proper utilization of livestock manure as a nutrient source, and to protect the water resources of the state from livestock manure runoff.

b. A person shall not be eligible to participate in the program, unless the person is an individual family farmer, an individual 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, a family farm trust, or a family farm limited liability company, all as defined in section 9H.1.

c. The amount of moneys allocated in cost-share payments to a person qualifying under the organic nutrient management program shall not exceed fifty percent of the estimated cost of establishing the system or fifty percent of the actual cost, whichever is less.

d. The division shall maintain records regarding each award of financial incentives under this section, including the name of the person; the amount of the award; the location of the livestock manure management system established with financial incentive moneys; and whether the person is a family farm corporation, family farm limited partnership, family trust, or a family farm limited liability company.

e. The department shall not allocate moneys to a person who is a party to a legal or administrative action, including a contested case proceeding under chapter 17A, which relates to an alleged violation of chapter 455B involving the disposal of livestock waste, until the action is resolved. The department of natural resources shall cooperate with the division by providing information necessary to administer this paragraph.

f. A person shall not use moneys allocated pursuant to this section for purposes of paying an amount imposed pursuant to a fine or civil penalty, or for remediating or restoring the condition of an area contaminated by livestock waste.

g. A person qualifying under the program shall not receive more than seven thousand five hundred dollars in financial incentives during any fiscal year beginning on July 1 and ending on June 30. A person who has received financial assistance in a prior fiscal year is eligible to receive financial assistance in a subsequent fiscal year, unless the financial assistance is used to support the establishment of a system previously receiving assistance under this program.

Sec. 35. NEW SECTION. 169.4A PROVISION OF VETERINARY SERVICES.

A person, including a corporation, limited liability company, or partnership, established on or after the effective date of this Act, other than either a professional corporation organized under chapter 496C or a veterinarian licensed under this chapter, shall not provide veterinary medical services, own a veterinary clinic, or practice in this state, except as otherwise provided in this chapter. However, this section shall not prohibit a person from owning an interest in real property or a building where a clinic is located, if veterinary medical services or a practice is conducted by the clinic by a professional corporation or a veterinarian licensed under this chapter.

Sec. 36. Section 173.14B, subsection 2, Code 1993, is amended to read as follows:

2. The board may issue negotiable bonds and notes of the authority in principal amounts which are necessary to provide sufficient funds for achievement of its corporate purposes, the payment of interest on its bonds and notes, the establishment of reserves to secure its bonds and notes, and all other expenditures of the board incident to and necessary or convenient to carry out its purposes and powers, subject to authorization and approval required under subsection 1. However, the total principal amount of bonds and notes outstanding at any time under subsection 1 and this subsection shall not exceed ~~six~~ twenty-five million dollars. The bonds and notes are deemed to be investment securities and negotiable instruments within the meaning of and for all purposes of the uniform commercial code.

Sec. 37. Section 190.14, subsection 1, Code 1993, is amended to read as follows:

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance, ~~1989~~ 1993 Revision", as provided in section 192.102.

Sec. 38. Section 191.9, subsection 1, Code 1993, is amended to read as follows:

1. The department shall administer this chapter consistent with the provisions of the "Grade 'A' Pasteurized Milk Ordinance, ~~1989~~ 1993 Revision", as provided in section 192.102.

Sec. 39. Section 192.102, Code 1993, is amended to read as follows:

192.102 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade 'A' Pasteurized Milk Ordinance, ~~1989~~ 1993 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 40. Section 192.110, subsection 2, Code Supplement 1993, is amended to read as follows:

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~~ 1993 Revision" as provided in section 192.102.

Sec. 41. Section 200.22, subsection 1, paragraph a, as enacted by 1994 Iowa Acts, Senate File 94,* section 1, is amended to read as follows:

*Chapter 1002 herein

a. "Local governmental entity" means any political subdivision, or any state authority which is not the general assembly or under the direction of a principal central department as enumerated in section 7E.5, including a city as defined in section 362.2, a county as provided in chapter ~~359~~ 331, or any special purpose district.

Sec. 42. Section 206.34, subsection 1, paragraph a, as enacted by 1994 Iowa Acts, Senate File 94,* section 2, is amended to read as follows:

a. "Local governmental entity" means any political subdivision, or any state authority which is not the general assembly or under the direction of a principal central department as enumerated in section 7E.5, including a city as defined in section 362.2, a county as provided in chapter ~~359~~ 331, or any special purpose district.

Sec. 43. NEW SECTION. 214.4 TAGGING OF EQUIPMENT.

1. If the department does not receive payment of the license fee required pursuant to section 214.3 within one month from the due date, the department shall send a notice to the owner or operator of the device. The notice shall be delivered by certified mail. The notice shall state all of the following:

a. The owner or operator is delinquent in the payment of the required fee.

b. The owner or operator has fifteen days after receipt of the notice to pay the license fee required pursuant to section 214.3.

c. If the department does not receive payment of the license fee as required, the department may summarily tag and remove from service the commercial weighing and measuring device.

2. If the license fee is not received by the department within fifteen days after receipt of the notice by the owner or operator of the commercial weighing and measuring device, the department may tag and remove from service the device for which the license fee has not been paid.

Sec. 44. NEW SECTION. 266.39D LIVESTOCK PRODUCERS ASSISTANCE PROGRAM.

Iowa state university shall 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. The program, to every extent practicable, shall be supported by nonstate moneys. The university shall submit a report to the legislative fiscal bureau by November 1 of each year, if the university expects that state moneys may be required to support the program during the subsequent state fiscal year. The report shall include all expected sources of revenues and the amounts expected to be contributed by these sources for the subsequent state fiscal year.

Sec. 45. Section 321.453, Code 1993, as amended by 1994 Iowa Acts, Senate File 2080,** section 3, is amended by striking the section and inserting in lieu thereof the following:

321.453 EXCEPTIONS.

The provisions of this chapter governing size, weight, and load, and the permit requirements of chapter 321E do not apply to fire apparatus, to road maintenance equipment owned by or under lease to any state or local authority, to implements of husbandry temporarily moved upon a highway, to implements moved from farm site to farm site or between the retail seller and a farm purchaser within a one hundred mile radius from the retail seller's place of business, to indivisible implements of husbandry temporarily moved between the place of manufacture and a retail seller or a farm purchaser, to implements received and moved by a retail seller of implements of husbandry in exchange for an implement purchased, or to implements of husbandry moved for repairs, except on any part of the interstate highway system. A vehicle, carrying an implement of husbandry, which is exempted from the permit requirements under this section shall be equipped with an amber flashing light under section 321.423, shall be equipped with warning flags on that portion of the vehicle which protrudes into oncoming traffic, and shall only operate from thirty minutes prior to sunrise to thirty minutes following sunset.

*Chapter 1002 herein

**Chapter 1087 herein

Sec. 46. Section 455A.18, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. Notwithstanding section 12C.7, interest or earnings on investments or time deposits of the moneys in the Iowa resources enhancement and protection fund or any of its accounts shall be credited to the Iowa resources enhancement and protection fund.

Sec. 47. Section 455B.105, subsection 11, paragraph b, Code 1993, is amended to read as follows:

b. ~~The~~ Except as otherwise provided in this chapter, fees collected by the department under this subsection shall be remitted to the treasurer of state and credited to the general fund of the state.

Sec. 48. NEW SECTION. 455B.183A WATER QUALITY PROTECTION FUND.

1. A water quality protection fund is created in the state treasury under the control of the department. The fund consists of moneys appropriated to the fund by the general assembly, moneys deposited into the fund from fees described in subsection 2, and other moneys available to and obtained or accepted by the department from the United States government or private sources for placement in the fund. The fund is divided into two accounts, including the administration account and the public water supply system account. Moneys in the administration account shall be used for purposes of carrying out the provisions of this division, which relate to the administration, regulation, and enforcement of the federal Safe Drinking Water Act. Moneys in the public water supply system account shall be used to support the program to assist supply systems, as provided in section 455B.183B.

2. The commission shall adopt fees as required pursuant to section 455B.105 for permits required for public water supply systems as provided in sections 455B.174 and 455B.183. Fees paid pursuant to this section shall not be subject to the sales or services tax. The fees shall be for each of the following:

a. The construction, installation, or modification of a public water supply system. The amount of the fees may be based on the type of system being constructed, installed, or modified.

b. The operation of a public water supply system, including any part of the system. The fees may be based on the type and size of community served by the system. The commission shall adopt a fee schedule. The commission shall calculate all fees in the schedule to produce total revenues equaling four hundred seventy-five thousand dollars for the fiscal year beginning July 1, 1994, and ending June 30, 1995, seven hundred thousand dollars for the fiscal year beginning July 1, 1995, and ending June 30, 1996, nine hundred thousand dollars for the fiscal year beginning July 1, 1996, and ending June 30, 1997, and one million two hundred thousand dollars for each subsequent fiscal year. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, twenty-five thousand dollars shall be deposited in the administration account and four hundred fifty thousand dollars shall be deposited in the public water supply system account. For each subsequent fiscal year, one-half of the fees shall be deposited into the administration account and one-half of the fees shall be deposited into the public water supply system account. By May 1 of each year, the department shall estimate the total revenue expected to be collected from the overpayment of fees, which are all fees in excess of the amount of the total revenues which are expected to be collected under the current fee schedule, and the total revenue expected to be collected from the payment of fees during the next fiscal year. The commission shall adjust the fees if the estimate exceeds the amount of revenue required to be deposited in the fund pursuant to this paragraph.

3. Moneys in the fund are subject to an annual audit by the auditor of state. The fund is subject to warrants by the director of revenue and finance, drawn upon the written requisition of the department.

4. Section 8.33 does not apply to moneys in the fund. Moneys earned as income, including interest from the fund, shall remain in the fund until expended.

5. On or before November 15 of each fiscal year, the department shall transmit to the department of management and the legislative fiscal bureau information regarding the fund and accounts, including all of the following:

a. The balance of unobligated and unencumbered moneys in each account as of November 1.

b. A summary of revenue deposited in and expenditures from each account during the current fiscal year.

c. Estimates of revenues expected to be deposited into the public water supply system account during the current fiscal year, and an estimate of the expected balance of unobligated and unencumbered moneys in the account on June 30 of the current fiscal year.

Sec. 49. NEW SECTION. 455B.183B PROGRAM TO ASSIST SUPPLY SYSTEMS.

1. The state of Iowa declares its intention to retain its jurisdiction to enforce areas provided under the federal Safe Drinking Water Act as delegated to the state by the United States.

2. The department shall establish a program to assist supply systems, in order to provide assistance to ensure safe public water supplies. The department in administering the program shall provide technical advice and perform vulnerability and viability studies of public water supply systems.

3. Whenever practical, the department may enter into a contract with a person qualified to provide assistance services under this section, if the agreement for the services is cost-effective and the quality of the services ensures compliance with state and federal law. A person entering into a contract with the department for the purpose of providing the services shall be deemed to be an agent of the department, and shall have the same authority as provided to the department, unless the contract specifies otherwise. The department shall review assistance services performed by a person under a contract to ensure that quality cost-effective service is being provided.

4. The program shall be supported by moneys deposited in the public water supply system account created in the water quality protection fund established pursuant to section 455B.183A.

Sec. 50. NEW SECTION. 455B.183C PERSONNEL — DEPARTMENT OF MANAGEMENT.

Notwithstanding any limitation upon the department's number of full-time equivalent positions as defined in section 8.36A, any point limitation on personnel, or any other limitation upon the number of personnel or their employment classification, imposed by the department of management, the department may employ the number of full-time equivalent positions which equals the number of positions allocated by the general assembly to the department for each applicable fiscal year in order to carry out the provisions of this division relating to the administration, regulation, and enforcement of the federal Safe Drinking Water Act and the program to assist supply systems, but only to the extent that moneys used to support the positions derive from moneys deposited in the water quality protection fund, as provided in section 455B.183A. If a specific number of full-time equivalent positions are not allocated by the general assembly, the department may fill any number of positions required to administer the program, to the extent the positions are supported by the fund.

Sec. 51. RULES REQUIRED. The department of natural resources shall adopt all rules necessary to implement sections 455B.183A and 455B.183B by December 31, 1994. All rules shall be adopted pursuant to chapter 17A.

Sec. 52. EFFECTIVE DATE. Sections 2, 26, 28, 30, 31, 47, 48, 49, 50, 51, and this section of this Act, being deemed of immediate importance, take effect upon enactment.

Approved May 13, 1994, except the items which I hereby disapprove and which are designated as Sections 26 and 27 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 2314, an Act relating to appropriations and revenue involving agriculture and natural resources, making related statutory changes, and providing fees and effective dates.

Senate File 2314 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the items designated as Sections 26 and 27, in their entirety. These provisions would restrict executive branch agencies from entering into lease-purchase agreements. These provisions, like those included in other appropriations bills, are overly restrictive and do not allow agencies to respond to unforeseen circumstances, therefore they cannot be approved.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2314 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1199

MISCELLANEOUS APPROPRIATIONS, REDUCTIONS, TRANSFERS, AND OTHER MATTERS

S.F. 2330

AN ACT relating to and making standing appropriations, appropriations for capital projects, transfers of certain funds, and other state financial and regulatory matters 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. NEW SECTION. 8.8 SPECIAL OLYMPICS FUND.

A special olympics fund is created in the office of the treasurer of state under the control of the department of management. There is appropriated annually from the general fund of the state to the special olympics fund twenty thousand dollars for distribution to one or more organizations which administer special olympics programs benefiting the citizens of Iowa with disabilities.

Sec. 2. Section 422.12A, Code Supplement 1993, is repealed.

Sec. 3. 1993 Iowa Acts, chapter 144, section 6, is repealed.

Sec. 4. 1994 Iowa Acts, Senate File 2229,* section 24, is repealed.

Sec. 5. RETROACTIVITY. Section 2 of this Act applies retroactively to January 1, 1994. Section 3 of this Act applies retroactively to January 1, 1993.

Sec. 6. EFFECTIVE DATES. Sections 2, 3, 4, and 5 of this Act, being deemed of immediate importance, take effect upon enactment.

*Chapter 1188 herein

DIVISION II
CAPITAL PROJECTS
DEPARTMENT OF NATURAL RESOURCES

Sec. 7. 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, 1994, and ending June 30, 1995, 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:

..... $ 1,600,000

Notwithstanding section 8.33, the unencumbered or unobligated moneys remaining on June 30, 1995, 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, 1994, shall revert to the general fund of the state on September 30, 1996.

LOTTERY EXCESS

Sec. 8. Notwithstanding 1993 Iowa Acts, chapter 180, section 17, of the lottery revenues remaining after $39,400,000 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 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.

2. To the treasurer of state for the continued funding of Iowa's participation in the funding of the world food prize:

..... $ 250,000

It is the intent of the general assembly that this appropriation of public funds will result in a commitment for additional funding for the world food prize from private sources.

The treasurer of state shall only provide the funds appropriated in this section to the world food prize foundation if sufficient private funds are raised to maintain the world food prize foundation in Iowa and the foundation is structured to include representation that reflects environmental concerns and sustainable agriculture.

3. To the Iowa resources enhancement and protection fund which is in addition to any other appropriations made to that fund:

..... $ 500,000

4. To the department of natural resources for deposit in the administration account of the water quality protection fund created pursuant to section 455B.183A, as enacted in 1994 Iowa Acts, Senate File 2314:*

..... $ 300,000

5. To the department of public defense to match federal funds for the addition and renovation to the armory in Fairfield:

..... $ 250,000

It is the intent of the general assembly that the Seventy-sixth General Assembly, 1995 Session, appropriate the remaining amount needed to match the remaining available federal funds.

6. To the state fair board for completion of the Iowa state fair service center:

..... $ 200,000

The Iowa state fair service center is an essential element in meeting the requirements of the federal Americans with Disabilities Act by providing basic, required assistance to the handicapped and elderly. The service center also shall provide information and services to families and individuals. These services are not only to be provided at state fair time but at other state fair located events, and within the surrounding area.

*Chapter 1198, §48 herein

7. To the railway finance authority for a community assistance grant to be used for rail line acquisition to preserve jobs in communities in which railroad shops and other local rail facilities have been closed:

..... $ 75,000

8. To the department of cultural affairs for the administrative division to conduct a midwest regional space center feasibility study:

..... $ 50,000

9. To the treasurer of state to provide assistance to the city that is selected to host the United States-Japan midwest conference to be used by the city for local promotion and coordination of the conference:

..... $ 50,000

10. To the treasurer of state to assist the nonprofit, tax exempt Bentonsport Improvement Association in the restoring of historical buildings and restoring and opening to pedestrian traffic the "old iron bridge" linking Bentonsport and Vernon:

..... $ 20,000

The treasurer of state shall only provide the funds appropriated in this subsection if sufficient private or other public funds are raised to assist in this restoration and opening of this bridge.

11. To the treasurer of state to assist in the renovation and improvement of the "Meredith Willson footbridge":

..... $ 25,000

The treasurer of state shall only provide the funds appropriated in this subsection if sufficient private or other public funds are raised to assist in this renovation and improvement of this footbridge.

12. To the department of corrections for health, life safety, and maintenance needs at correctional institutions:

..... $ 100,000

13. To the department of human services for health, life safety, and maintenance needs at department of human services facilities:

..... $ 50,000

14. To the department of natural resources for purposes of funding capitals traditionally funded from marine fuel tax receipts for the purposes specified in section 452A.79:

..... $ 50,000

15. To the department of economic development for the division of community and rural development to provide grants to local communities for stadium improvements, provided that a grantee shall provide a one dollar match for each dollar of grant funding:

..... $ 25,000

16. To the Iowa department of public health for a grant to a private institution to develop and conduct community health education programs on advance directives in accordance with this subsection:

..... $ 25,000

The grant shall be provided to a private institution centrally located in the state which is able to draw from a variety of disciplines including but not limited to health services, law, sociology, insurance, economics, education, and public administration.

17. To the soil conservation division of the department of agriculture and land stewardship for purposes of providing salaries, support, maintenance, and miscellaneous purposes for soil conservation technicians and for not more than the following full-time equivalent positions, which shall be in addition to any other moneys appropriated by the Seventy-fifth General Assembly, second regular session:

..... $ 127,000

..... FTEs 5.00

18. To the department of natural resources to be used as provided in this subsection:

..... $ 75,000

The moneys appropriated in this subsection 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 $75,000 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.

To the college student aid commission for grants to students who would meet the requirements for receipt of a vocational-technical tuition grant, but who are enrolled in a licensed school of cosmetology arts and sciences under chapter 157, or a licensed barber school under chapter 158:

..... $ 25,000

The amount of the grant made by the college student aid commission pursuant to this subsection shall be not less than $300 or the amount of the student's established financial need.

19. To the department of economic development for allocation to the agriculture museum in Cambridge, Iowa:

..... $ 10,000

20. To the department of economic development for the Iowa members' cost share for the 1993 study phase of the Lewis and Clark rural water system:

..... $ 40,000

21. To the department of human services for the costs associated with the child protection task force created pursuant to 1994 Iowa Acts, House File 2261:*

..... $ 10,000

22. To the state board of regents to be used for compliance with the federal Americans with Disabilities Act at the Iowa braille and sight saving school:

..... $ 40,000

23. To the department of economic development to continue the funding for the promotion of a national heritage landscape in Iowa as provided in 1993 Iowa Acts, chapter 180, section 66:

..... $ 50,000

24. To the department of general services for repairs and improvements to Terrace Hill including, but not limited to, fire alarms, water sprinklers, and other fire protection devices:

..... $ 20,000

25. To the department of natural resources to initiate a comprehensive watershed and resource evaluation for the potential preservation and restoration of an artificial lake in excess of 150 acres:

..... $ 50,000

The department shall use the moneys available in this subsection to contribute on a one-dollar for one-dollar match dollars dedicated by the county conservation board in a county with a population of 250,000 or more.

Notwithstanding section 8.33, moneys transferred pursuant to this section which remain unobligated or unexpended on June 30, 1994, 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 section.

Sec. 9. Section 8 of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 10. There is appropriated from the primary road fund to the state department of transportation for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purchase of Lots 1 through 12, Block 3, College Park Addition to Ames, Story County, Iowa, and the renovation of the buildings located on those lots:

..... $ 1,500,000

*Chapter 1130 herein

DIVISION III
TRANSFERS

Sec. 11. RURAL COMMUNITY 2000 TRANSFER. Notwithstanding the provisions in section 15.287, 16.100, or other provision of law providing that moneys in the fund shall remain in the rural community 2000 revolving fund of the state, not more than $310,000 of the moneys in the revolving fund which remain unencumbered on July 1, 1993, shall be transferred and credited to the general fund of the state.

Sec. 12. 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, 1994, and ending June 30, 1995, after deductions as provided in section 99E.10, subsection 1, and as appropriated under any Act of the Seventy-fifth General Assembly, 1994 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. 13. IOWA PLAN FUND TRANSFER OF ACCOUNTS. Notwithstanding any provision to the contrary, all unencumbered or unobligated moneys in the jobs now capitals, jobs now, education and agriculture research and development, and surplus accounts of the Iowa plan fund under chapter 99E for economic development on the effective date of this section shall be transferred to the general fund of the state to be used for any purposes for which appropriated by the general assembly notwithstanding the moneys in those accounts may have been previously appropriated for specific purposes.

Sec. 14. BOTTLE DEPOSIT SURCHARGE TRANSFER. Notwithstanding the provisions of section 123.24, subsection 5, and section 123.53, subsection 4, providing for collection and deposit of liquor bottle surcharge funds in the beer and liquor control fund for liquor container disposal costs, up to $380,000 of the surcharge funds which remain unencumbered on July 1, 1993, shall be transferred and credited to the general fund of the state.

Sec. 15. COMMUNITY COLLEGE JOB TRAINING FUND TRANSFER. Notwithstanding the provisions of section 260F.6, 260F.8, or any other provision of law providing for retention of moneys in the community college job training fund, not more than $40,000 of the moneys in the training fund which remain unencumbered on July 1, 1993, shall be transferred and credited to the general fund of the state.

Sec. 16. Section 15.108, subsection 1, paragraph e, Code Supplement 1993, is amended by striking the paragraph.

Sec. 17. Section 15.251, subsection 3, Code Supplement 1993, is amended by striking the subsection.

Sec. 18. Section 15.308, subsection 2, paragraph a, Code 1993, is amended by striking the paragraph.

Sec. 19. Sections 99E.31, 99E.32, and 99E.33, Code 1993, are repealed effective June 30, 1994.

Sec. 20. EFFECTIVE DATE. Sections 11, 13, 14, and 15 of this Act, being deemed of immediate importance, take effect upon enactment.

DIVISION IV – APPROPRIATION REDUCTIONS
STATE DEPARTMENT OF TRANSPORTATION

Sec. 21. 1993 Iowa Acts, chapter 169, section 8, subsection 1, paragraph a, is amended to read as follows:

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~~
1,410,553

COMMISSION OF VETERANS AFFAIRS

Sec. 22. 1993 Iowa Acts, chapter 170, section 6, subsection 3, unnumbered paragraph 1, is amended to read as follows:

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ ~~32,046,739~~
31,657,739
..... FTEs 689.54

DEPARTMENT OF HUMAN SERVICES

Sec. 23. 1993 Iowa Acts, chapter 172, section 3, unnumbered paragraph 2, is amended to read as follows:

For medical assistance, including reimbursement for abortion services, which shall be available under the medical assistance program only for those abortions which are medically necessary:

..... $ ~~342,058,555~~
320,658,555

STATE BOARD OF REGENTS

Sec. 24. 1993 Iowa Acts, chapter 179, section 8, subsection 1, paragraph b, is amended to read as follows:

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~~
21,908,580

DEPARTMENT OF EDUCATION

Sec. 25. 1993 Iowa Acts, chapter 180, section 19, is amended to read as follows:

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~~ $850,000.

UNANTICIPATED TAX REFUNDS

Sec. 26.* *Unless revenues actually credited to and deposited into, during fiscal year 1993-1994, the general fund of the state exceed $3.899 billion, unanticipated tax refunds which relate to the following court cases shall not be paid by the state in fiscal year 1993-1994: Kraft General Foods v. Iowa Department of Revenue and Finance, 112 S.Ct. 2365 (1992) and Phillips Petroleum v. Iowa Department of Revenue and Finance, No. 440/92-1824 (Supreme Court of Iowa).

Sec. 27. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

*Item veto; see message at end of the Act

DIVISION V – SUPPLEMENTAL APPROPRIATIONS
COMMUNITY ECONOMIC BETTERMENT ACCOUNT

Sec. 28. There is appropriated from the general fund of the state from revenues generated from tax revenue anticipation notes and other available moneys in the general fund to the department of economic development 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 deposit in the community economic betterment account of the strategic investment fund in addition to moneys deposited in the fund pursuant to 1993 Iowa Acts, chapter 167, section 1:

..... $ 3,700,000

As a condition of the moneys appropriated in this section, $60,000 for the fiscal year beginning July 1, 1993, shall be used to match federal funds to design and implement a business development initiative for entrepreneurs with disabilities. The business development division of the department of economic development shall cooperate with the division of vocational rehabilitation, the department of inspections and appeals, and the Iowa governor's planning council for developmental disabilities in adopting administrative rules to implement the initiative. The scope of the rules shall include but is not limited to establishing an administrative structure that uses moneys for the initiative to provide for sufficient staff support to certify applicants, coordinate technical assistance, and assess demand for the initiative. Based on an assessment of demand for the initiative and other findings, the department, with the listed entities, shall submit recommendations on or before December 15, 1994, to the governor and the general assembly for consideration in the 1995 legislative session. The purpose of the initiative is to develop a program to provide technical and financial assistance to help persons with disabilities to become self-sufficient and create additional employment opportunities by establishing or expanding small business ventures. The business development division shall enter into an interagency agreement with the division of vocational rehabilitation of the department of education to implement the program. The purpose of the interagency agreement is to strengthen initial placements and long-term successes of individuals with disabilities through self-employment, by combining the business expertise of the department of economic development with the experience of the division of vocational rehabilitation in working with people with disabilities. The business development division shall design the program to make the maximum amount of resources expended by the division of vocational rehabilitation and the department of economic development eligible for federal reimbursement. Notwithstanding section 8.33, moneys transferred pursuant to this paragraph which are unexpended or unobligated at the close of the fiscal year shall not revert to the general fund of the state but shall remain available for expenditure in the succeeding fiscal year.

DEPARTMENT OF HUMAN SERVICES

Sec. 29. 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, to supplement the appropriations made in 1993 Iowa Acts, chapter 172, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. Family investment program, which was formerly named aid to families with dependent children, in section 1:

..... $ 1,000,000

2. Medical contracts, in section 4:

..... $ 300,000

3. State hospital-schools, in section 15:

..... $ 250,000

The appropriation made in this subsection shall supplement the allocation made in 1993 Iowa Acts, chapter 172, section 15, subsection 1, paragraph "b", to the state hospital-school at Woodward and shall be used for workers' compensation claims.

4. MI/MR/DD state cases, in section 19:
..... $ 500,000
5. For the gamblers assistance program, in section 26:
..... $ 20,000

Sec. 30. 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, to supplement the appropriations made in 1993 Iowa Acts, chapter 171, the following amounts or so much thereof as is necessary to be used for the purpose designated:

For the prosecuting attorney training program, in section 1:
..... $ 40,000

Sec. 31. LACES PROGRAM. 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 contracting with the Iowa alliance for arts education to execute the local arts comprehensive educational strategies program (LACES):
..... $ 100,000

It is intended that of the moneys appropriated in this subsection up to $10,000 be used to support the participation by a school district with an enrollment of less than 500 in a worldwide academic competition.

Sec. 32. LEVEE RECONSTRUCTION.

1. There is appropriated from the general fund of the state to the division of soil conservation of the department of agriculture and land stewardship for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For providing financial incentives for soil conservation practices for the purposes of providing assistance in repairing and reconstructing levees:
..... $ 550,000

2. The commissioners of each soil and water conservation district receiving moneys as provided in this section shall use the moneys to assist persons in reconstructing or repairing levees damaged by floods occurring during 1993. The following conditions shall apply:

a. The division shall award the moneys based upon applications for specific projects submitted by the districts.

b. The moneys shall be awarded on a cost-share basis. A person shall not receive more than 40 percent of the total cost of repair or reconstruction. **However, in no instance, shall a person receive more than $2,500.**

c. Moneys shall not be used to support a project, if other state or federal moneys have been contributed to support the project.

d. Moneys shall only be used to support a project which restores a levee to its condition prior to the flood damage. However, moneys may support improvements which are incidental to the repairs or reconstruction.

e. A person shall not be eligible to receive assistance under this section, unless the person is an individual who is actively engaged in farming as provided in section 9H.1, subsection 1, paragraphs "a" through "c", the person is a partnership if the partners are actively engaged in farming as provided in this paragraph, or the person is a family farm corporation, family farm limited partnership, family trust, or family farm limited liability company, as defined in section 9H.1.

3. Notwithstanding section 8.33, moneys appropriated pursuant to this section which are unencumbered or unobligated on June 30, 1994, shall not revert but shall be available for expenditure as provided in this section during subsequent fiscal years. However, moneys appropriated under this section which are still unencumbered or unobligated on June 30, 1996, shall be credited to the conservation practices revolving loan fund created pursuant to section 161A.71.

*Item veto; see message at end of the Act

4. Notwithstanding 1994 Iowa Acts, Senate File 2314,* if enacted, if any conflict exists between this section and any provision in Senate File 2314, this section shall prevail.

Sec. 33. IOWA VETERANS HOME. If actual revenues for the fiscal year beginning July 1, 1993, and ending June 30, 1994, exceed the revenue estimating conference projections of December 15, 1993, for that fiscal year by at least $211,000, the Iowa veterans home, notwithstanding section 8.33, may retain $211,000 which otherwise would revert and may carry over this amount to the fiscal year beginning July 1, 1994, and ending June 30, 1995. These funds shall be used to eliminate the delay in opening beds due to funding constraints.

Sec. 34. EFFECTIVE DATE. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

DIVISION VI
MISCELLANEOUS PROVISIONS

Sec. 35. There is appropriated from the general fund of the state to the department of cultural affairs for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

To complete a follow-up in-depth feasibility study of the preliminary report done by the national trust for historic preservation's flood recovery program which looked into the reactivating of the historic railroad lines between valley junction in West Des Moines, court avenue, and the state capitol area of Des Moines:

..... $ 25,000

The department of transportation shall cooperate with the department of cultural affairs in the study.

Sec. 36. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For the retired senior volunteer program, in addition to moneys appropriated in 1994 Iowa Acts, House File 2376,** section 3, subsection 2:

..... $ 16,500

Sec. 37. APPROPRIATION – ASSOCIATE JUVENILE JUDGE. There is appropriated from the general fund of the state to the judicial department for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For an additional associate juvenile judge for a judicial district located in a county with a population over two hundred twenty-five thousand, including salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 140,000
..... FTEs 2.75

Sec. 38. 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, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For the farmers' market coupon program, in addition to other funding appropriated for this purpose in 1994 Iowa Acts, Senate File 2314,* to expand the program to additional counties:

..... $ 25,000

Sec. 39. DEPARTMENT OF HUMAN SERVICES – PREPAID MENTAL HEALTH SERVICES. The department of human services shall select a contractor for a prepaid mental health services plan for medical assistance patients, as described in 1994 Iowa Acts, Senate File 2313,*** section 3, subsection 6, solely on the basis of the bid documents submitted by

*Chapter 1198 herein
**Chapter 1200 herein
***Chapter 1186 herein

respondents. The department shall not apply a preference or benefit to a respondent for a previous proposal submitted to the department or for an endorsement of a respondent by another person or potential provider of services under the plan.

Sec. 40. 1994 Iowa Acts, Senate File 2313,* section 5, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. If, during the fiscal year beginning July 1, 1994, and ending June 30, 1995, the department projects that state supplementary assistance expenditures for a calendar year will not meet the federal requirement specified in section 1618 of the federal Social Security Act, the department may take actions including but not limited to increasing the personal needs allowance for residential care facility residents and programmatic adjustments or upward adjustment of the residential care facility or in-home health-related care reimbursement rates prescribed in section 25 of this Act to ensure that federal requirements are met. The department may adopt emergency rules to implement the provisions of this paragraph.

Sec. 41. 1994 Iowa Acts, Senate File 2313,* section 11, is amended by adding the following new subsection:

NEW SUBSECTION. 5. Of the funds appropriated in this section, $31,900 shall be used by the department for child neutral visitation grants. It is the intent of the general assembly that funds shall be provided by the state for this purpose only for this fiscal year.

***Sec. 42.* *1994 Iowa Acts, Senate File 2313, section 13, subsection 2, is amended to read as follows:*

2. Within the funds appropriated in this section, the department may reallocate funds as necessary to best fulfill the needs of the institutions provided for in the appropriation. However, the department shall not reallocate funds if the reallocation would result in a reduction in services or of personnel at any institution.**

Sec. 43. 1994 Iowa Acts, Senate File 2218,*** section 6, subsection 2, is amended by increasing the number of full-time equivalent positions from 10.00 to 11.00 for the audits division of the department of inspections and appeals.

Sec. 44. Section 8.39, subsection 2, Code 1993, as amended by 1994 Iowa Acts, Senate File 2318,**** is amended to read as follows:

2. If the appropriation of a department, institution, or agency is insufficient to properly meet the legitimate expenses of the department, institution, or agency, the director, with the approval of the governor, may make an interdepartmental transfer from any other department, institution, or agency of the state having an appropriation in excess of its needs, of sufficient funds to meet that deficiency. An interdepartmental transfer to an appropriation which is not an entitlement appropriation is not authorized when the general assembly is in regular session and, in addition, the sum of interdepartmental transfers in a fiscal year to an appropriation which is not an entitlement appropriation shall not exceed fifty percent of the amount of the appropriation as enacted by the general assembly. For the purposes of this subsection, an entitlement appropriation is a line item appropriation to the state public defender for indigent defense or to the department of human services for foster care, state supplementary assistance, or medical assistance, or for the family investment program.

Sec. 45. Section 34A.2, subsection 6, paragraph e, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

~~Costs~~ Funds deposited in an E911 service fund shall be appropriated and used for the payment of costs which 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 associated equipment, and other radios and equipment permanently located at the public safety answering point. Costs do not include

*Chapter 1186 herein
**Item veto; see message at end of the Act
***Chapter 1187 herein
****Chapter 1181, §6 herein

expenditures for any other purpose, and specifically exclude costs attributable to other emergency services or expenditures for buildings or personnel, except for the costs of personnel for database management and personnel directly associated with addressing.

Sec. 46. NEW SECTION. 99F.4B RULES.

The department of inspections and appeals shall cooperate to the maximum extent possible with the division of criminal investigation in adopting rules relating to the gaming operations in this chapter and chapter 99D.

Sec. 47. Section 279.51, subsection 1, paragraph c, Code 1993, is amended to read as follows:

c. For each of the fiscal years during the fiscal period beginning July 1, ~~1990~~ 1994, and ending June 30, ~~1994~~ 1998, eight hundred thousand dollars of the funds appropriated shall be allocated for the school-based youth services education program established in subsection 3. For each of the fiscal years during the fiscal period beginning July 1, 1994, and ending June 30, 1998, twenty thousand dollars of the funds allocated under this paragraph shall be expended for staff development, research, and the development of strategies for coordination with community-based youth organizations and agencies. A school that received a grant during the fiscal year beginning July 1, 1993, is ineligible to receive a grant under this paragraph. Subject to the approval of the state board of education, the allocation made in this paragraph may be renewed for additional four-year periods of time.

Sec. 48. Section 279.51, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. For each of the fiscal years during the fiscal period beginning July 1, 1994, and ending June 30, 1998, fifty thousand dollars of the funds appropriated shall be granted to each of the four schools that received grants under subsection 3 during the fiscal year beginning July 1, 1993, to allow for expansion and to include identified minimum services if the school submits a program plan pursuant to subsection 3.

Sec. 49. Section 279.51, subsection 3, unnumbered paragraphs 1, 2, 4, and 5, Code 1993, are amended to read as follows:

A school-based youth services education program is established. The department of education, in consultation with the department of human services, the department of employment services, the Iowa department of public health, the division of criminal and juvenile justice planning of the department of human rights, institutions of higher learning with applicable programs, and the division of job training and entrepreneurship assistance of the department of economic development, shall develop a four-year demonstration grant program that commences in the fiscal year beginning July 1, ~~1990~~ 1994. The department shall provide grants to individual or consortiums of elementary, middle, ~~schools~~ or high schools to establish school-based youth services programs, in conjunction with local agencies and community organizations, based upon program plans filed by the board of directors of the school district. The department shall provide grants to establish model programs in at least the following three size categories:

a. A school district with an enrollment of less than one thousand two hundred.

b. A school district with an enrollment of one thousand two hundred to four thousand nine hundred ninety-nine.

c. A school district with an enrollment of at least five thousand.

PARAGRAPH DIVIDED. Priority shall be weighted toward need and given to schools whose plans indicate a high degree of active participation by community-based youth organizations and agencies, and to schools with student populations characterized by high rates of a number of the following: school dropout and absenteeism; teenage pregnancy; juvenile court involvement; family conflict; unemployment; teenage suicide; and ~~teenage~~ child and youth mental health, substance abuse, and other health problems. The department shall ~~evaluate proposed programs based upon the department's analysis of~~ coordinate an evaluation initiative with the approved projects designed to investigate program effectiveness in reducing these rates within ~~the schools~~

communities. In developing the evaluation initiative, the department shall consult with the department of human services, the department of employment services, the Iowa department of public health, the division of criminal and juvenile justice planning of the department of human rights, institutions of higher learning with applicable programs, and the division of job training and entrepreneurship assistance of the department of economic development.

Programs shall provide at a minimum recreation opportunities, personal skills development, basic academic skills development, family interaction opportunities, and mentoring. Additional objectives of the programs shall be: to increase the ability of existing agencies within the community to address the multiple problems of ~~teenagers~~ children and youth and to coordinate their activities, ~~to provide an accessible and attractive center for teenagers in or near school that they are most likely to use,~~ and to facilitate joint planning to make the most economic and innovative use of community resources. Priority shall be given to programs that provide access to a center for children and youth after school, in the evening, and on weekends, and during the summer and that provide a twenty-four-hour telephone hotline or similar service, and that provide access to day care or on-site child day care. Programs shall at a minimum provide ~~job training and employment~~ career development services, mental health and family counseling services, and primary health care services that include but are not limited to physical examinations, immunizations, hearing and vision screening, and preventive and primary health care services, in the context of the educational needs of the students. Programs shall not include abortion counseling or the dispensing of contraceptives. ~~The department shall give additional consideration to program proposals that provide access to the center after school, in the evening and on weekends, and during the summer; that provide a twenty-four hour telephone hotline or similar service; and that provide access to day care or on-site day care.~~

Program proposals shall include a program evaluation component and a written commitment from the school principal and the board of directors that the school will work to coordinate and integrate existing school services and activities with the center and shall include letters of support for the proposal from the local teachers association; parent-teacher organizations; community organizations; nonprofit agencies providing social services, health, or ~~employment~~ career development services in the area; the juvenile court system serving the area; and the area private industry council.

Grants for the program shall not be used to construct a new facility~~, but up to ten percent of the grant may be used~~ or to renovate an existing structure. ~~In addition, up to ten percent of the grant funds may be used to provide each of the following service categories: day care, transportation, and recreation.~~

Sec. 50. Section 307.26, subsection 5, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The development and adoption of classifications of crossings on public highways based upon their characteristics, conditions, and hazards, and standards for warning devices, signals, and signs of each crossing classification. The department shall recommend a schedule for implementation of the standards to the government agency, department, or political subdivision having jurisdiction of the highway and shall provide an annual report to the general assembly on the development and adoption of classifications and standards under this paragraph and their implementation, including information about financing installation of warning devices, signals, and signs. The department shall not be liable for the development or adoption of the classifications or standards. A government agency, department, or political subdivision shall not be liable for failure to implement the standards. A crossing warning or improvement installed or maintained pursuant to standards adopted by the department under this paragraph shall be deemed an adequate and appropriate warning for the crossing.

**Sec. 51. Section 904.201, Code 1993, is amended by adding the following new subsection:*

NEW SUBSECTION. *9. The center shall serve as the transportation center for the transportation of inmates in the custody of the department throughout the state.**

Sec. 52. 1994 Iowa Acts, House File 181,** section 4, is amended to read as follows:

*Item veto; see message at end of the Act

**Chapter 1102 herein

SEC. 4. ~~CONTINGENT~~ EFFECTIVE DATE. The provisions of this Act which amend section 321.189, take effect May 1, 1995~~, or at such time as the department of education provides adequate training vehicles, instructors, curriculum materials, training sites, and program funding for training for all persons who are required to complete the motorcycle education course or for any person who would like to complete the motorcycle education course, whichever is earlier. The department of education shall notify the state department of transportation when the department of education has the resources available to effectively offer the motorcycle education course.~~

Sec. 53. The department of commerce, department of employment services, and department of inspections and appeals shall each designate a single division within the respective departments to submit a budget proposal in accordance with the zero-based budgeting method, and to track the appropriations made to the divisions in accordance with the program performance-based budgeting method for the fiscal year beginning July 1, 1995. The proposals shall be submitted by the designated divisions to the department of management and the legislative fiscal bureau no later than January 1, 1995. A division designated pursuant to this section shall also prepare a budget proposal in the same manner as prepared for the fiscal year beginning July 1, 1993, which proposal shall have priority over the proposal to be prepared in accordance with the zero-based budgeting method.

Sec. 54. EFFECTIVE DATE. Section 39 of this division, of this Act, relating to prepaid mental health services, being deemed of immediate importance, takes effect upon enactment.

DIVISION VII
EDUCATION FINANCES – CONTINGENT PROVISIONS

Sec. 55. SPECIAL EDUCATION STUDY. 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 is necessary, to be used for the purpose designated:

For contracting with the north central regional education laboratory to conduct a study of the proposed special education administrative rules, IAB Vol. XVI, No. 18 (3-2-94), p. 1710, ARC 4626A, and the impact of the proposed rules on special education costs to the state:

..... $ 50,000

The department of education shall report the results of the study, along with the recommendations of the north central regional education laboratory, to the general assembly by January 15, 1995. The state board of education is prohibited from adopting the proposed special education administrative rules before February 1, 1995.

Sec. 56. EDUCATIONAL EXCELLENCE. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, the appropriation made to the department of education pursuant to section 294A.25, subsection 1, shall be increased by $139,745 to be used for Phase II.

Sec. 57. SCHOOL LIAISON. 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 is necessary, to be used for the purposes designated:

For a grant to a school district for school liaison costs, provided the school district lost a school liaison during the 1993-1994 school year and funding is provided to match the grant moneys:

..... $ 20,000

Sec. 58. PARENTING PILOT PROJECT. The department of education shall establish a four-year pilot project in a county with a population of less than thirty-five thousand inhabitants which provides outreach and incentives for the voluntary participation of expectant parents and parents of children in the period of life from birth through age three, in educational

experiences designed to assist parents in learning about the physical, mental, and emotional development of their children and to enhance the skills of the parents in assisting their children's learning and development. The department shall establish criteria for programs offered through the project, which may include, but are not limited to, the criteria established for family support programs under section 256A.4. The department shall report to the general assembly by January 15, 1998, regarding the success of the pilot project in meeting the goals established in this section.

Sec. 59. APPROPRIATION. 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 is necessary, to be used for the purpose designated:

For establishing a parent education pilot project under section 58 in a county with fewer than thirty-five thousand inhabitants:

..... $ 50,000

Sec. 60. AT-RISK CHILDREN. For the fiscal year beginning July 1, 1994, and ending June 30, 1995, the appropriation made to the department of education pursuant to section 279.51, subsection 1, shall be increased by $2,000,000 to be allocated as provided in section 279.51, subsection 1, paragraph "c", for the streets to success* program.

Sec. 61. 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 is necessary, to be used for the purpose designated:

For the purposes of establishing a character education pilot program to evaluate methods for incorporating positive character qualities into all levels of the existing educational program:

..... $ 50,000

The department of education shall report to the state board of education and to the general assembly regarding the success of any pilot programs by January 1, 1996.

Sec. 62. CONTINGENT APPROPRIATION. If the actual taxable valuation of real property located in this state, based upon January 1, 1993, assessments, which is used in the computation of property taxes payable in the fiscal year beginning July 1, 1994, increases from the estimate of such taxable valuation, the amount of the reduction in state foundation aid under section 257.1 as a result of such increase in taxable valuation shall be used to fund sections 56, 57, 58, 59, and 60 and 61. If the amount of the reduction is insufficient, section 60 shall be funded first with the others being prorated.

Sec. 63. CONTINGENT EFFECTIVE DATE. Sections 56, 57, 58, 59, and 60 and 61 of this division of this Act take effect upon the enactment of section 62.

DIVISION VIII
CORRECTIVE CHANGES

Sec. 64. Section 8.60, subsection 2, Code Supplement 1993, as amended by 1994 Iowa Acts, Senate File 2086,** section 32, is amended by striking the subsection.

Sec. 65. Section 262.25A, subsection 3, unnumbered paragraph 1, as enacted by 1994 Iowa Acts, House File 2337,*** is amended to read as follows:

Of all new passenger vehicles and light pickup trucks purchased by or under the direction of the state board of regents ~~to provide services to a merged area~~, a minimum of ten percent of all such vehicles and trucks purchased shall be equipped with engines which utilize alternative methods of propulsion, including but not limited to any of the following:

Sec. 66. Section 282.4, Code 1993, as amended by 1994 Iowa Acts, House File 2383,**** is amended to read as follows:

*The term "streets to success" probably intended as "school-based youth services education"
**Chapter 1107 herein
***Chapter 1119, §26 herein
****Chapter 1131, §7 herein

282.4 EXPULSION – DISMISSAL.

The board may, by a majority vote, expel any pupil from school for a violation of the regulations or rules established by the board, or when the presence of the pupil is detrimental to the best interests of the school. The board may confer upon any teacher, principal, or superintendent the power temporarily to dismiss a pupil, notice of such dismissal being at once given in writing to the president of the board.

A pupil who commits an assault, as defined under section 708.1, against a school employee in a school building, on school grounds, or at a school-sponsored function shall be suspended for a time to be determined by the principal. Notice of the suspension shall be immediately sent to the president of the board. By special meeting or at the next regularly scheduled board meeting, the board shall review the suspension and decide whether to ~~ratify the suspension or~~ hold a disciplinary hearing to determine whether or not to order further sanctions against the pupil, which may include expelling the pupil. In making its decision, the board shall consider the best interests of the school district, which shall include what is best to protect and ensure the safety of the school employees and pupils from the pupil committing the assault.

A pupil shall not be suspended or expelled pursuant to this section if the suspension or expulsion would violate the federal Individuals with Disabilities Education Act.

Sec. 67. Section 615.3, Code 1993, as amended by 1994 Iowa Acts, House File 307,* is amended to read as follows:

615.3 FUTURE JUDGMENTS WITHOUT FORECLOSURE.

A judgment hereafter rendered on a promissory obligation secured by a mortgage, deed of trust of real estate upon which at the time of the judgment is either used for an agricultural purpose as defined in section 535.13 or a one-family or two-family dwelling which is the residence of the mortgagor, but without foreclosure against the security, shall not be subject to renewal by action thereon, and, after the lapse of two years from the date of rendition, shall be without force and effect for any purpose whatsoever except as a setoff or counterclaim. As used in this section, "mortgagor" means a mortgagor of a mortgage or a borrower executing a deed of trust as provided in chapter 654 or the vendee of a real estate contract.

Sec. 68. 1994 Iowa Acts, House File 2230,** section 3, is amended to read as follows:

SEC. 3. REPEALER. This Act is repealed effective ~~January 1~~ February 15, 1995.

Sec. 69. 1994 Iowa Acts, Senate File 2313,*** section 19, subsection 1, unnumbered paragraph 1, is amended to read as follows:

Of the funds appropriated in this section, ~~$15,639,333~~ 15,888,195 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:

Sec. 70. 1994 Iowa Acts, Senate File 2313,*** section 19, subsection 6, paragraph a, is amended to read as follows:

a. Of the funds appropriated in this section, ~~$13,287,625~~ 13,038,763 is allocated for distribution to counties for local purchase of services for persons with mental illness or mental retardation or other developmental disability.

Sec. 71. 1994 Iowa Acts, House File 582,**** section 1, subsection 2, is amended to read as follows:

2. Beginning July 1, 1994, and ending June 30, 1996, the department shall administer a preadmission screening and assessment pilot program for elders seeking admission to nursing facilities, in three to six counties in the state, which have existing case management programs for elders, in consultation with area agencies on the aging, service providers, and the peer review organization. The counties selected shall represent both rural and urban populations. Unless an elder is exempt from the preadmission screening and assessment pilot program pursuant to subsection 5, ~~or~~ 6, or 7 an elder shall not be admitted to a nursing facility in a participating county prior to completion of a preadmission screening and, if necessary, an assessment. This provision shall not apply to individuals who are eligible for medical

*Chapter 1115 herein
**Chapter 1097 herein
***Chapter 1186 herein
****Chapter 1077 herein

assistance until necessary waivers are approved by the federal health care financing administration.

Sec. 72. 1994 Iowa Acts, House File 2411,* section 7, subsection 4, is amended by striking the subsection.

Sec. 73. 1994 Iowa Acts, Senate File 2086,** sections 34 and 36, are repealed.

Sec. 74. 1994 Iowa Acts, House File 2403,*** section 6, is repealed.

Sec. 75. 1994 Iowa Acts, House File 2179,**** section 26, is repealed.

Sec. 76. REPEAL – RETROACTIVE APPLICABILITY.

1. Sections 64 and 73 of this Act, relating to section 8.60, being deemed of immediate importance, take effect upon enactment.

2. Section 75 of this Act, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to March 31, 1994.

DIVISION IX
MOTOR VEHICLES

Sec. 77. Section 321.24, unnumbered paragraph 5, Code 1993, is amended to read as follows:

If the prior certificate of title is from another state and indicates that the vehicle was junked, an Iowa junking certificate shall be issued according to section 321.52, subsections 2 and 3. If the prior certificate of title from another state indicates that the vehicle is salvaged and not rebuilt or is a salvage certificate of title, an Iowa salvage certificate of title shall be issued and a "SALVAGE" designation shall be retained on all subsequent Iowa certificates of title and registration receipts for the vehicle, except as provided under section 321.52, subsection 4, paragraph "b". The department may require that subsequent Iowa certificates of title retain other state's designations which indicate that a vehicle had incurred prior damage. The department shall ~~adopt rules to~~ determine the manner in which other states' rebuilt, salvage, or other designations are to be indicated on Iowa titles.

Sec. 78. Section 321.457, Code Supplement 1993, as amended by 1994 Iowa Acts, Senate File 2080,***** sections 6 and 7, is amended to read as follows:

321.457 MAXIMUM LENGTH.

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

2. The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state, ~~unless subject to the maximum length provisions of subsection 3,~~ are as follows:

a. A single truck, unladen or with load, shall not have an overall length, inclusive of front and rear bumpers, in excess of forty feet.

b. A single bus shall not have an overall length, inclusive of front and rear bumpers, in excess of forty-five feet, except that buses constructed so as to contain a flexible part allowing articulation shall not exceed sixty-one feet.

c. ~~Except for combinations of vehicles, provisions for which are otherwise made in this chapter, no combination of a truck tractor and a semitrailer coupled together or a motor truck and a trailer or semitrailer coupled together unladen or with load, shall have an overall length, inclusive of front and rear bumpers, in excess of sixty feet.~~

~~d.~~ However, a mobile home not in excess of forty-eight feet in length may be drawn by any motor vehicle, except a motor truck, provided that the mobile home and its towing unit are not in excess of an overall length of sixty feet. For the purposes of this subsection, a light delivery truck, panel delivery truck or "pickup" is not a motor truck. A portable livestock loading chute not in excess of a length of thirteen feet including its hitch or tongue may be

*Chapter 1193 herein
**Chapter 1107 herein
***Chapter 1076 herein
****Chapter 1021 herein
*****Chapter 1087 herein

drawn by any vehicle or combination of vehicles, provided that the vehicle or combination of vehicles drawing the loading chute is not in excess of the legal length provided for such vehicles or combinations.

e d. Combinations of vehicles coupled together which are used exclusively for the transportation of passenger vehicles, light delivery trucks, panel delivery trucks, pickup trucks, recreational vehicle chassis, and boats shall not exceed sixty-five feet in overall length. However, the load carried on a truck-semitrailer combination may extend up to three feet beyond the front bumper and up to four feet beyond the rear bumper.

f e. A combination of three vehicles coupled together one of which is a motor vehicle, unladen or with load, other than a truck tractor, shall not have an overall length, inclusive of front and rear bumpers, in excess of sixty feet.

g f. A motor vehicle or combination of vehicles may be operated upon the highways of this state, irrespective of the length and weight limitations imposed by the laws of this state, if the motor vehicle or combination of vehicles is operated within the corporate limits of a city abutting a border of this state and such operations have been approved by ordinance of the city council and if the length and weight of the motor vehicle or combination of vehicles is in conformity with the laws relating to length and weight of the abutting state on July 1, 1974. If a city council has authorized such operation upon highways within the corporate limits, then the limit of travel for such motor vehicles or combination of vehicles within the state is extended to the commercial zones as described by federal regulations concerning interstate commerce, 49 code of federal regulations, paragraphs 1048.10, 1048.38, and 1048.101 as they exist on July 1, 1974.

~~3. The maximum length of any motor vehicle or combination of vehicles operated on the highways of this state shall be as follows:~~

~~a~~ g. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of fifty-three feet when operating in a truck tractor-semitrailer combination.

~~b~~ h. A trailer or semitrailer, laden or unladen, shall not have an overall length in excess of twenty-eight feet six inches when operating in a truck tractor-semitrailer-trailer combination or truck tractor-semitrailer-semitrailer combination. When the semitrailers in a truck tractor-semitrailer-semitrailer combination are connected by a rigid frame extension including a fifth-wheel connection point attached to the rear frame of the first semitrailer, the length of the frame extension shall not be included when determining the overall length of the first semitrailer.

e i. Power units designed to carry cargo, when used in combination with a trailer or semitrailer shall not exceed sixty-five feet in overall length for the combination.

~~d~~ j. A stinger-steered automobile transporter shall not have an overall length exceeding seventy-five feet, except that the load may extend up to three feet beyond the front bumper and up to four feet beyond the rear bumper.

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

4 3. Fire fighting apparatus and vehicles operated during daylight hours when transporting poles, pipe, machinery, or other objects of a structural nature which cannot be readily disassembled when required for emergency repair of public service facilities or properties are not subject to the limitations on overall length of vehicles and combinations of vehicles imposed under this section. However, for operation during nighttime hours, these vehicles and the load being transported shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps at the extreme ends of the projecting load to clearly mark the dimensions of the load. A member of the state highway safety patrol shall also be notified prior to the operation of the vehicle.

Sec. 79. Section 321.463, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A vehicle designed to tow wrecked or disabled vehicles shall be exempt from the weight limitations in this section while the vehicle is towing a wrecked or disabled vehicle.

Sec. 80. Section 322.4, subsection 7, Code 1993, is amended to read as follows:

7. Before the issuance of a motor vehicle dealer's license to a dealer engaged in the sale of vehicles for which a certificate of title is required under chapter 321, the applicant shall furnish a surety bond executed by the applicant as principal and executed by a corporate surety company, licensed and qualified to do business within this state, which bond shall run to the state of Iowa, be in the amount of ~~thirty-five~~ fifty thousand dollars and be conditioned upon the faithful compliance by the applicant as a dealer with all of the statutes of this state regulating or applicable to the business of a dealer in motor vehicles, and indemnifying any person who buys a motor vehicle from the dealer from any loss or damage occasioned by the failure of the dealer to comply with any of the provisions of chapter 321 and this chapter, including, but not limited to, the furnishing of a proper and valid certificate of title to the motor vehicle involved in a transaction. The bond shall also indemnify any motor vehicle purchaser from any loss or damage caused by the failure of the dealer to comply with the odometer requirements in section 321.71, regardless of whether the motor vehicle was purchased directly from the dealer. The bond shall be filed with the department prior to the issuance of a license. The aggregate liability of the surety, however, shall not exceed the amount of the bond.

DIVISION X
FISCAL YEAR 1993-1994 APPROPRIATIONS

Sec. 81. DEPARTMENT OF CORRECTIONS. 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 health, life safety, and maintenance needs at correctional facilities:

..... $ 150,000

Sec. 82. DEPARTMENT OF HUMAN SERVICES. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For health, life safety, and maintenance needs at department of human services facilities:

..... $ 100,000

Sec. 83. BOARD OF REGENTS. 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 is necessary, to be used for the purposes designated:

1. For fire and environmental safety at the Iowa school for the deaf:

..... $ 75,000

2. For compliance with the federal Americans with Disabilities Act at the Iowa braille and sight saving school:

..... $ 20,000

**Sec. 84. DEPARTMENT OF CORRECTIONS — TRANSPORTATION COSTS. 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, in addition to other appropriations and full-time equivalent positions made to and authorized for the department, the following amount, or so much thereof as is necessary, to be used for the purpose designated:*

For the establishment of the Iowa medical and classification center at Oakdale as the transportation center for the transportation of inmates throughout the state, including funding for the purchase of necessary vehicles or equipment, salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... *$ 100,000*

..... *FTEs 5.00**

*Item veto; see message at end of the Act

Sec. 85. TECHNICAL ASSISTANCE TO COUNTIES. 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 salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions to provide technical assistance to counties and other necessary support to implement the provisions of sections 331.438, 331.439, and 331.440 as enacted by 1994 Iowa Acts, House File 2430:*

..... $ 294,541
..... FTEs 6.00

The department may adopt emergency rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of sections 331.438, 331.439, and 331.440 as enacted by House File 2430* no later than January 1, 1995, and the rules shall become effective immediately upon filing. 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. 86. STATE CHILD CARE ASSISTANCE. There is appropriated from the general fund of the state to the department of human services for the fiscal year beginning July 1, 1993, and ending June 30, 1994, the following amount, or so much thereof as is necessary, to be used for state child care assistance:

..... $ 500,000

1. The moneys appropriated in this section shall be used to provide child day care assistance to families with earned income who are participating in the family investment program or who are exiting the family investment program. If drawing federal matching funding does not jeopardize federal cost neutrality under the federal waiver for the family investment program, the department may utilize the moneys appropriated in this section to draw available federal funding. If a federal waiver is granted to revise the transitional child care program pursuant to the request submitted in accordance with 1994 Iowa Acts, Senate File 2313,** the moneys appropriated in this section shall first be allocated to reduce or eliminate any waiting list which develops as a result of implementing the waiver.

2. Any moneys which the department does not obligate to implement the provisions of subsection 1 shall be used as additional funding for state child care assistance in accordance with the appropriation made for that purpose in 1994 Iowa Acts, Senate File 2313.**

Sec. 87. GERIATRIC PATIENTS. 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 application by the department for grants to establish pilot projects for placements of geriatric patients who have a mental illness:

..... $ 20,000

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. 88. SOIL CONSERVATION TECHNICIANS. There is appropriated from the general fund of the state to the soil conservation 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 purposes designated:

For salaries, support, maintenance, and miscellaneous purposes for soil conservation technicians and for not more than the following full-time equivalent positions:

..... $ 123,000
..... FTEs 5.00

Sec. 89. APPROPRIATION FOR THE DEPARTMENT OF PUBLIC SAFETY. 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, in addition

*Chapter 1163 herein
**Chapter 1186 herein

to the amounts appropriated pursuant to 1994 Iowa Acts, Senate File 2217,* 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 five full-time equivalent positions devoted to the regulation of pari-mutuel gambling, including the state contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the officers' salaries:

..... $ 177,879

This appropriation is contingent upon passage of one or more referendums authorizing gambling games within the pari-mutuel racetrack enclosures.

2. To the division of criminal investigation for salaries, support, maintenance, and miscellaneous purposes and for not more than five full-time equivalent positions, including the state contribution to the peace officers' retirement, accident, and disability system provided in chapter 97A in the amount of 18 percent of the officers' salaries:

..... $ 129,486

Sec. 90. 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:

For salaries, support, maintenance, and miscellaneous purposes:

..... $ 165,517

Notwithstanding the number of full-time equivalent positions authorized for the racing and gaming commission for fiscal year 1994-1995 in 1994 Iowa Acts, Senate File 2218,** section 7, subsection 1, the number of full-time equivalent positions authorized for the commission in that fiscal year is 23.97.

Sec. 91. 1994 Iowa Acts, Senate File 2217,* section 3, subsection 2, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department of public safety, with the approval of the department of management, may employ up to one gaming enforcement officer for each riverboat existing on March 31, 1994, whose hours of operation exceed those hours in effect prior to March 31, 1994, and no more than two special agents and four gaming enforcement officers for each additional riverboat regulated on or after March 31, 1994.

Sec. 92. NONREVERSION. Notwithstanding section 8.33, moneys appropriated pursuant to this division which are unencumbered or unobligated on June 30, 1994, shall not revert but shall be available for expenditure as provided in this division during the subsequent fiscal year. The authorizations for full-time equivalent positions in appropriations made in this division shall continue to the extent the appropriation remains available in the succeeding fiscal year.

Sec. 93. EFFECTIVE DATE. This division of this Act takes effect upon enactment.

Approved May 13, 1994, except the items which I herby disapprove and which are designated as Section 26 in its entirety; that portion of Section 32, subsection 2, paragraph b which is herein bracketed in ink and initialed by me; Section 42 in its entirety; Section 51 in its entirety; and Section 84 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*

*Chapter 1189 herein

**Chapter 1187 herein

Dear Madam Secretary:

I hereby transmit Senate File 2330, an Act relating to and making standing appropriations, appropriations for capital projects, transfers of certain funds, and other state financial and regulatory matters and providing effective and applicability date provisions.

Senate File 2330 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 26, in its entirety. This provision would restrict payment of tax refunds in FY 1994 to persons who are entitled to refunds under recent court decisions if general fund revenues do not exceed a certain amount. Not only would it be unfair to postpone payment of the refunds to those entitled to receive them, but it is also not good practice for the state to defer obligations into future years.

I am unable to approve the designated portion of Section 32, subsection 2, paragraph b. One of the unfortunate results of last summer's disastrous flooding was the extensive damage caused to levees along farmland. Created in this bill is a program to provide financial assistance to farmers to repair and reconstruct agricultural levees damaged by the flood. If the purposes of the program are not to be frustrated, then adequate funding must be available to assist those farmers who could benefit from the program.

I am unable to approve the item designated as Section 42, in its entirety. This provision would restrict the Department of Human Services from reallocating funds from one mental health institution to another. The department should retain the flexibility to reallocate funds as needed among the institutions.

I am unable to approve the items designated as Sections 51 and 84, in their entirety. These provisions would establish the Iowa Medical and Classification Center at Oakdale as the transportation center for the Department of Corrections. One hundred thousand dollars ($100,000) is appropriated in the bill for necessary vehicles, equipment, support, maintenance, and salaries of five FTEs. The appropriation provided falls far short of what is necessary to support the transportation needs of the department, therefore these provisions cannot be approved.

For the above reasons, I hereby respectfully disapprove these items in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in Senate File 2330 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1200

APPROPRIATIONS – HEALTH AND HUMAN RIGHTS

H.F. 2376

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.

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, 1994, and ending June 30, 1995, 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:

..... $ 1,370,334
..... 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, 1994, and ending June 30, 1995, 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:

..... $ 1,083,962
..... FTEs 29.00

1. The department shall seek alternatives to travel through the use of video and teleconferencing technology.

2. If the anticipated amount of federal funding from the federal equal employment opportunity commission and the federal department of housing and urban development exceeds $387,900 during the fiscal year beginning July 1, 1994, and ending June 30, 1995, the Iowa state civil rights commission may exceed their authorized staffing level to hire additional professional staff to investigate employment and housing complaints.

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, 1994, and ending June 30, 1995, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

1. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 429,287
..... FTEs 28.50

The department shall seek alternatives to travel through the use of video and teleconferencing technology.

2. For aging programs and services:

..... $ 2,319,893

All funds appropriated in 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 services, telephone reassurance, information and assistance, and home repair services, including the winterizing of homes, and for the construction of entrance ramps which 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, 1994, and ending June 30, 1995, 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:

.....	$	2,044,397
.....	FTEs	60.40

The department shall seek alternatives to travel through the use of video and teleconferencing technology.

Of the funds appropriated in this lettered paragraph, $743,949 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.

Of the funds appropriated in this lettered paragraph, $100,000 shall be used to provide regulatory oversight of accountable health plans.

b. PROFESSIONAL LICENSURE

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	745,895
.....	FTEs	11.00

The department shall confer with the boards funded under this lettered paragraph in estimating the boards' annual fee generation and administrative costs. When the department develops each board's annual budget, a board's budget shall not exceed 85 percent of fees collected, based on the average of the previous two years.

c. HEALTH DELIVERY SYSTEMS

(1) For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

.....	$	1,264,037
.....	FTEs	17.00

(2) Of the funds appropriated in this lettered paragraph, $149,151 is allocated for the office of rural health to provide technical assistance to rural areas in the area of health care delivery.

(3) Of the funds appropriated in this lettered paragraph, $1,010,886 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 lettered paragraph only if the reimbursement is not available through any employer or third-party payor.

(4) Of the funds appropriated in this lettered paragraph, $104,000 shall be used to develop, implement, and maintain rural health provider recruitment and retention efforts.

d. HEALTH DATA COMMISSION

For the health data commission:

..... $ 240,250

The funds appropriated in 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, 1994, 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.

2. HEALTH PROTECTION DIVISION

a. For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 2,246,543
..... FTEs 75.37

b. Of the funds appropriated in this subsection, $75,000 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. Of the funds appropriated in this subsection, $38,046 shall be used for radon program activities. The department shall also retain $30,000 of federal radon funds for additional radon program activities.

f. The state university of Iowa hospitals and clinics shall not receive indirect costs from the funds appropriated in this subsection.

g. The division shall seek alternatives to travel through the use of video and teleconferencing technology.

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:

..... $ 604,663
..... FTEs 27.73

The department shall seek alternatives to travel through the use of video and teleconferencing technology.

(1) The division shall create a task force composed of substance abuse treatment and prevention providers regardless of funding source to study treatment and prevention service areas and the fiscal implications of awarding funds to more than one provider per service area.

(2) The substance abuse division of the department of public health shall investigate the feasibility of applying for a grant to receive federal "section 402," "motorcycle helmet" transfer funds, pursuant to 23 U.S.C. § 402 and 49 U.S.C. Appx. § 2302, to be used for adolescent

substance abuse prevention and, if feasible, shall apply for the funds.

(3) It is the intent of the general assembly that by July 1, 1997, the commission on substance abuse, in conjunction with the division, shall coordinate delivery of substance abuse services involving prevention, social and medical detoxification, and other treatment by medical and nonmedical providers to uninsured and court-ordered substance abuse patients in all counties of the state. The department of public health shall apply for a grant to receive federal "section 402," "motorcycle helmet" transfer funds, pursuant to 23 U.S.C. § 402 and 49 U.S.C. Appx. § 2302, for an amount up to $500,000 to be used for court-ordered social and medical detoxification. If the grant moneys are received, the department shall develop a payment formula which provides an initial partial reimbursement at a percentage rate established by rule for services of covered claims during the first quarter of the fiscal year. At the end of each quarter of the fiscal year, the department shall compare the amount expended and adjust reimbursement for the upcoming quarter payments to each provider which uniformly increases or decreases the reimbursement percentage to the level permitted by the fiscal quarter's appropriation, but not exceeding 100 percent reimbursement. The formula for payment to providers shall balance formula factors of financial need of the providers, county per capita usage, and maximum daily rate. If funds remain for a quarter reimbursing at 100 percent, they shall be carried over to the next quarter. Moneys provided under this subparagraph shall not be used to supplant any existing funds. An annual report shall be provided to the legislative fiscal bureau on all claims submitted to the division for uninsured and court-ordered medical and social detoxification. A plan outlining the coordination activities and projects shall be developed by January 1, 1995. Projects under the plan shall be implemented during the fiscal year beginning July 1, 1995, and ending June 30, 1996, provided the projects can be funded within budget limitations.

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:

..... $ 3,042,496
..... FTEs 58.50

(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, $1,001,209 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, conduct mobile and regional child health specialty clinics, and conduct 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 budget for the fiscal year beginning July 1, 1995, for the programs in the family and community health division in accordance with the performance-based budgeting method. Notwithstanding section 8.23, the department is not required to submit a budget for the programs using 75 percent based budgeting and decision package methodology.

The department shall track the programs which were in the family and community health division in the fiscal year beginning July 1, 1991, in accordance with the program performance-based budgeting method.

(9) The department shall work with the department of elder affairs to realize the "Healthy Iowans 2000" goal of providing nutrition screening to 90 percent of the elderly persons participating in well-elderly screening clinics, congregate meal programs, and home care aide programs, and shall submit a progress report to the general assembly by January 1, 1995, 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, 1995.

(11) The department shall seek alternatives to travel through the use of video and teleconferencing technology.

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 shall 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 three 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, human services county cluster boards, 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 medical assistance 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 of four dollars in advance of each state dollar provided.

(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 in 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 to the general assembly concerning the efficiency of the program and make any recommendations for improvements.

5. STATE BOARD OF DENTAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 257,049
..... FTEs 4.00

The board shall seek alternatives to travel through the use of video and teleconferencing technology.

6. STATE BOARD OF MEDICAL EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 979,949

..... FTEs 18.00

The board shall seek alternatives to travel through the use of video and teleconferencing technology.

7. STATE BOARD OF NURSING EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 874,166

..... FTEs 16.00

The board shall seek alternatives to travel through the use of video and teleconferencing technology.

8. STATE BOARD OF PHARMACY EXAMINERS

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 652,224

..... FTEs 11.00

The board shall seek alternatives to travel through the use of video and teleconferencing technology.

9. 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 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.

11. A local health care provider or nonprofit health care organization seeking grant moneys administered by the department of public health shall provide documentation that the provider or organization has coordinated its services with other local entities providing similar services.

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, 1994, and ending June 30, 1995, 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:

..... $ 176,836

..... FTEs 6.60

The division shall seek alternatives to travel through the use of video and teleconferencing technology.

2. COMMUNITY ACTION AGENCIES DIVISION

For the expenses of the community action agencies commission:

..... $ 3,401

The division shall seek alternatives to travel through the use of video and teleconferencing technology.

3. DEAF SERVICES DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 288,900
..... 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:

..... $ 101,393
..... FTEs 2.00

The division shall seek alternatives to travel through the use of video and teleconferencing technology.

5. LATINO AFFAIRS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 96,003
..... FTEs 2.00

The division shall seek alternatives to travel through the use of video and teleconferencing technology.

6. STATUS OF WOMEN DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 391,644
..... FTEs 4.50

a. Of the funds appropriated in this subsection, at least $125,775 shall be spent for the displaced homemaker program.

b. Of the funds appropriated in this subsection, at least $42,570 shall be spent for domestic violence and sexual assault-related grants.

c. Of the funds appropriated in this subsection, at least $45,241 shall be spent for the mentoring project for family investment program participants developed in accordance with section 239.22.

The division shall seek alternatives to travel through the use of video and teleconferencing technology.

7. STATUS OF AFRICAN-AMERICANS DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 85,877
..... FTEs 2.00

The division shall seek alternatives to travel through the use of video and teleconferencing technology.

8. CRIMINAL AND JUVENILE JUSTICE PLANNING DIVISION

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 363,866
..... FTEs 9.75

The division shall seek alternatives to travel through the use of video and teleconferencing technology.

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, at least $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 the fiscal year beginning July 1, 1995, in accordance with the program performance-based budgeting method.**

10. GRANT WRITING. The divisions of the department of human rights shall retain their individual administrators, but are strongly encouraged to share staff to the greatest extent possible and especially for the purpose of grant writing.

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, 1994, and ending June 30, 1995, 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:

..... $ 147,244
..... FTEs 4.00

The commission shall seek alternatives to travel through the use of video and teleconferencing technology.

The commission of veterans affairs may use the gifts accepted by the chairperson of the commission of veterans affairs, or designee, and other resources available to the commission for use at its Camp Dodge office. The commission shall report annually to the governor and the general assembly on monetary gifts received by the commission for the Camp Dodge office.

2. WAR ORPHANS

For the war orphans educational aid fund established pursuant to chapter 35:

..... $ 4,800

3. IOWA VETERANS HOME

For salaries, support, maintenance, and miscellaneous purposes and for not more than the following full-time equivalent positions:

..... $ 35,432,032
..... FTEs 777.08

The veterans home shall seek alternatives to travel through the use of video and teleconferencing technology.

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.

If medical assistance revenues are expanded at the Iowa veterans home, and this expansion results in medical assistance reimbursements which exceed the amount budgeted for that purpose in the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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. The expenditure of additional funds received, as outlined in this paragraph, is subject to the approval by the department of management. Any funds which are saved by reorganizing the department of human rights pursuant to Senate File 2144, if enacted by the Seventy-fifth General Assembly,** shall be appropriated to the veterans home.

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

*Item veto; see message at end of the Act
**Senate File 2144 not enacted

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, 1995.

2. An interim committee is requested to be established by the legislative council to study the organizational structure of the department of human rights. The study shall include but not be limited to an examination of the administrative costs of the department, the costs and benefits of relocation of divisions of the department into other departments, and the continued viability of the department as a separate unit of government. Proposals for change in the organizational structure of the department shall be presented to the general assembly by January 1, 1995.

Sec. 8. LEASE-PURCHASE — BUDGET SUBMISSION. This section applies to each state agency receiving an appropriation in this Act. The departmental estimate required under section 8.23 for the fiscal period beginning July 1, 1995, which includes the state agency, shall provide an itemized list indicating the nature and amount of each lease-purchase contract payment included in the estimate for proposed contracts which have not been reported by the state agency to the legislative fiscal committee of the legislative council pursuant to section 8.46 prior to the submission of the estimate. The governor shall include in the governor's budget for the fiscal year beginning July 1, 1995, a listing indicating the nature and amount of each lease-purchase contract which was itemized in a departmental estimate in accordance with this section and is included in the governor's budget. A state agency receiving an appropriation in this Act shall not enter into a lease-purchase contract during the fiscal year beginning July 1, 1995, unless the contract was itemized in a departmental estimate and included in the governor's budget in accordance with this section.

Sec. 9. Section 35.9, Code 1993, is amended to read as follows:

35.9 EXPENDITURE BY COMMISSION.

The commission of veterans affairs may expend not more than ~~four~~ six hundred dollars per year for any one child who has lived in the state of Iowa for two years preceding application for aid, and who is the child of a person who died during World War I between the dates of April 6, 1917, and June 2, 1921, or during World War II between the dates of September 16, 1940, and December 31, 1946, both dates inclusive, or the Korean Conflict between June 25, 1950, and January 31, 1955, both dates inclusive, or the Vietnam Conflict between August 5, 1964, and May 7, 1975, both dates inclusive, or the Persian Gulf Conflict at any time between August 2, 1990, and the date the president or the congress of the United States declares a permanent cessation of hostilities, both dates inclusive, while serving in the military or naval forces of the United States, to include members of the reserve components performing service or duties required or authorized under chapter 39, United States Code and Title 32, United States Code, sections 502 through 505, and active state service required or authorized under chapter 29A, or as a result of such service, to defray the expenses of tuition, matriculation, laboratory and similar fees, books and supplies, board, lodging, and any other reasonably necessary expense for such child or children incident to attendance in this state at an educational or training institution of college grade, or in a business or vocational training school with standards approved by the commission of veterans affairs. However, if congress enacts a date different from August 2, 1990, as the beginning of the Persian Gulf Conflict for purposes of determining whether a veteran is entitled to receive military benefits as a veteran of the Persian Gulf Conflict, that date shall be substituted for August 2, 1990.

A child eligible to receive funds under this section shall not receive more than ~~two~~ three thousand dollars under this section during the child's lifetime.

*Item veto; see message at end of the Act

Approved May 13, 1994, except the items which I hereby disapprove and which are designated as Section 5, subsection 9 in its entirety; and Section 8 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Madam Secretary:

I hereby transmit House File 2376, 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.

House File 2376 is, therefore, approved on this date with the following exceptions which I hereby disapprove.

I am unable to approve the item designated as Section 5, subsection 9, in its entirety. This provision would require the Department of Human Rights to utilize performance-based budgeting in preparing and monitoring the department's budget. Performance-based budgeting will be applied on a test basis to track the appropriations of one division within the Department of Public Health. Until a determination can be made regarding the benefit to the state of using a different method of budgeting, it would be premature to impose this requirement on an entire department.

I am unable to approve the item designated as Section 8, in its entirety. This provision restricts executive branch agencies in their ability to enter into lease-purchase agreements. While the additional review and oversight of lease-purchase contracting by state agenices may be worthwhile, this provision does not allow agencies the flexibility they need to respond to situations which cannot be planned, e.g. emergencies and new federal requirements.

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 2376 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1201

APPROPRIATIONS — ECONOMIC DEVELOPMENT
H.F. 2415

AN ACT appropriating funds to the department of economic development, the Iowa finance authority, and the Wallace technology transfer foundation, and making statutory changes relating to economic development, and providing effective dates.

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

Section 1. There is appropriated from the general fund of the state and other designated funds to the department of economic development for the fiscal year beginning July 1, 1994, and ending June 30, 1995, on the condition that the department shall not use any moneys appropriated under this Act for further expansion of industrial site locator programs until the industrial site locator program at the university of northern Iowa is completed and fully implemented and the department and the university have reported to the general assembly on plans for coordination and cooperation between the department and the university, including access by the department to the database and technology of the university program, 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 that a business receiving moneys from the department for the purpose of job creation shall make available ten percent of the new jobs created for promise jobs program participants, who are qualified for the jobs created, and for providing a written report to the joint economic development appropriations subcommittee and the legislative fiscal bureau not later than January 15, 1995, regarding the structure of or plans to implement an advertising sales program

..... $ 892,000
..... FTEs 22.00

The director shall coordinate efforts with the workforce coordinator to implement the intent of the general assembly regarding businesses receiving job creation moneys and shall report to the joint economic development appropriations subcommittee regarding the number of jobs to be created by each business, the number of qualified promise jobs participants applying with the business, and the number of promise jobs participants hired.

b. Primary research and computer center

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 326,000
..... FTEs 5.50

c. Film office

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 185,000
..... FTEs 2.00

2. BUSINESS DEVELOPMENT DIVISION

a. Business development operations

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 3,000,000
..... FTEs 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, for providing 1.00 FTE

for the targeted small business compliance officer who shall continue to work jointly with the department of management, and for deaf interpreters funded through the economic development deaf interpreters revolving fund established in section 15.108, subsection 7, paragraph "j":

..... $ 380,000

..... FTEs 6.50

The department shall report to the joint economic development appropriations subcommittee and the legislative fiscal bureau regarding the utilization of the deaf interpreters by January 15, 1995, 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:

..... $ 98,000

..... FTEs 3.00

Notwithstanding section 8.33, moneys remaining unencumbered or unobligated on June 30, 1995, shall not revert and shall be available for expenditure during the fiscal year beginning July 1, 1995, 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:

..... $ 5,649,000

..... FTEs 10.00

e. Targeted small business incubator

For transfer directly to the targeted small business incubator in Des Moines, for computer equipment and other equipment, for the fiscal year beginning July 1, 1994, and ending June 30, 1995:

..... $ 10,000

Moneys appropriated for fiscal year 1994 and not expended by June 30, 1994, shall not revert but shall be held by the department for funding, with local matching funds, the targeted small business incubator in Des Moines for the fiscal year beginning July 1, 1994, and ending June 30, 1995:

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, 1995, and ending June 30, 1996, the following amount, or so much thereof as is necessary to be used for funding, with local matching funds, the targeted small business incubator in Des Moines:

..... $ 40,000

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, 1994, and ending June 30, 1995, 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:

..... $ 571,000

..... FTEs 7.50

b. Main street/rural main street program

For salaries and support for not more than the following full-time equivalent positions:

..... $ 375,000

..... 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:

..... $ 422,000
..... 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:

..... $ 226,000

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:

..... $ 380,000
..... 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:

..... $ 178,000

4. INTERNATIONAL DIVISION

a. International trade operations

For conducting foreign trade missions on behalf of Iowa businesses, salaries, support, maintenance, miscellaneous purposes, for allocating $100,000, or so much thereof as is necessary, to fund the United States midwest Japan conference, for allocating $45,000 for marketing in Mexico, and for not more than the following full-time equivalent positions:

..... $ 731,000
..... FTEs 7.00

b. Foreign trade offices

For salaries, support, maintenance, miscellaneous purposes, and for not more than the following full-time equivalent positions:

..... $ 585,000

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

e. For transfer to the partner state program which the department may use to 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 subsection of the funds transferred, and $4,000 shall be used only to establish a partner state program with Vietnam:

..... $ 100,000

If a partner state program has not been established with Vietnam by April 1, 1995, the department of management shall not disburse the $4,000 allocated for that program.

f. For transfer to the Iowa peace institute for the purpose of continuing to expand conflict resolution and negotiation efforts in Iowa's schools and communities and reporting to the joint appropriations subcommittee on economic development by January 15, 1995, on all such activities undertaken:

..... $ 96,000

g. For transfer to the international development foundation, on the condition that the foundation not pay for or reimburse the expenses of travel by members of the general assembly for any purpose, for the purposes of the foundation and reporting to the joint appropriations subcommittee on economic development by January 15, 1995, regarding actual and planned expenditures for fiscal year 1995:

..... $ 200,000

Notwithstanding section 8.33, moneys that remain unexpended on June 30 of the fiscal year shall not revert to any fund but shall be available for expenditure for the purposes of the foundation during the succeeding fiscal year.

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:

..... $ 710,000

..... 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, to allocate $100,000 to the Northwood welcome center, and for planning for a welcome center at living history farms:

..... $ 350,000

It is the intent of the general assembly that the Northwood welcome center receive an additional $50,000 in fiscal year 1995-1996.

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. WORKFORCE 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:

..... $ 950,000

..... FTEs 2.40

The department may combine for administrative and budget purposes the youth workforce conservation program and the Iowa corps program.

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:

..... $ 11,000

..... 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, $325,000. 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 full-time equivalent positions may be used for the administration of the Iowa small business new jobs training Act.

c. Workforce investment program

For allocating $450,000 for funding, to the extent possible, the currently existing high technology apprenticeship programs under section 260C.44 at the community colleges, and for the purposes of the workforce 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:

..... $ 926,000

..... FTEs 0.90

It is the intent of the general assembly that for the fiscal year beginning July 1, 1995, and for subsequent years, apprenticeships shall only be made available to community colleges on the basis of rules adopted by the department of economic development.

The department shall ensure that the workforce 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:

..... $ 114,000

..... 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.

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, 1994, and ending June 30, 1995, to the department of economic development for 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, 1994, and ending June 30, 1995, 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. Youth work force programs:

..... $ 50,000

4. All moneys in the job training fund not appropriated in subsections 1, 2, and 3 shall be used for job training and retraining programs under section 260F.6:

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, 1994, and ending June 30, 1995, 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 administering the industrial technology access program, 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 transferring $50,000 of the funds appropriated in this section to the Iowa quality coalition for productivity enhancement projects, and for allocating $350,000 to the industrial technology assistance program and for not more than the following full-time equivalent positions:

..... $ 2,000,000
..... FTEs 4.00

Sec. 5. There is appropriated from the general fund of the state to the Iowa seed capital corporation fund established in section 15E.89, for not more than the following full-time equivalent positions:

..... $ 853,000
..... FTEs 5.00

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, 1994, and ending June 30, 1995, 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, $60,000 for establishing a new small business development center, and for using $38,000 or so much thereof as is necessary for salary increases of up to four percent for non-Iowa state university employees:

..... $ 1,139,000

2. For funding the institute for physical research and technology:

..... $ 3,900,000

It is the intent of the general assembly that the incentive program focus on Iowa industrial sectors and seek contributions and in-kind donations from businesses, industrial foundations, and trade associations and that moneys for the institute for physical research and technology

*The word "all" probably intended

industrial incentive program shall only be allocated for projects which are matched by private sector moneys for directed contract research or for nondirected research. The match required of small businesses as defined in section 15.102, subsection 4, for directed contract research or for nondirected research shall be $1 for each $3 of state funds. The match required for other businesses for directed contract research or for nondirected research shall be $1 for each $1 of state funds. The match required of industrial foundations or trade associations shall be $1 for each $1 of state funds.

Iowa state university shall report annually to the joint economic development subcommittee of the senate and house appropriations committees the total amounts of private contributions, the proportion of contributions from small businesses and other businesses, and the proportion for directed contract research and nondirected research of benefit to Iowa businesses and industrial sectors.

Notwithstanding section 8.33, moneys appropriated for any fiscal year which remain unobligated and unexpended at the end of the fiscal year shall not revert but shall be available for expenditure the following fiscal year and the appropriation for the incentive program for the following year shall be reduced by an equal amount.

Sec. 7. There is appropriated from the general fund of the state to the state university of Iowa for the fiscal year beginning July 1, 1994, and ending June 30, 1995, 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:

..... $ 491,389

The board of regents shall submit a report on the progress of regents institutions in meeting the strategic plan for technology transfer and economic development to the chairpersons of the joint appropriations subcommittee on economic development, the joint appropriations subcommittee on education, the majority leader, and minority leader of the senate, the majority and minority leaders of the house of representatives, the secretary of the senate, the chief clerk of the house of representatives, and the legislative fiscal bureau by November 1, 1994.

Sec. 8. Notwithstanding section 8.33, moneys appropriated to the department of economic development in 1993 Iowa Acts, chapter 180, section 66, and remaining unspent as of June 30, 1994, shall not revert, but shall remain available for expenditure for the purposes set out in 1993 Iowa Acts, chapter 180, section 66.

Sec. 9. Not later than July 1, 1995, 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. 10. 1993 Iowa Acts, chapter 167, section 3, subsection 3, is amended to read as follows:

3. For the workforce coordinator:

..... $ 73,000

..... FTEs 1.00

Any funds allocated for salary and benefits for the workforce coordinator, and not expended on June 30, 1994, shall not revert, notwithstanding section 8.33, but shall be carried forward and be available for use for the workforce coordinator during the succeeding year.

Sec. 11. There is appropriated from the general fund of the state to the Iowa finance authority for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For deposit in the housing improvement fund created in section 16.100 for purposes of the fund:

..... $ 400,000

Sec. 12. There is appropriated from the deaf interpreters revolving fund established in section 15.108, subsection 7, paragraph "j", to the strategic investment fund for the fiscal year beginning July 1, 1994, and ending June 30, 1995, the following amount:

..... $ 40,000

Sec. 13. Section 12.43, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 5. A preference shall be given to those persons who are less able than other persons to secure funds for a targeted small business without participation in the targeted small business linked investment program.

Sec. 14. Section 15.318, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 16. In cases where projects being reviewed at the same time are given equivalent ratings under subsections 1 through 15, preference in funding shall be given to the project which is located in the county which has the highest percentage of low-and-moderate-income individuals. If the projects are located in the same county, preference in funding shall be given to the project which is located in the city which has the highest percentage of low-and-moderate-income individuals.

Sec. 15. Section 15E.81, Code 1993, is amended to read as follows:

15E.81 TITLE.

This division may be cited as the "Iowa ~~Product Development~~ Seed Capital Corporation Act".

Sec. 16. Section 15E.82, subsections 1, 2, and 5, Code 1993, are amended to read as follows:

1. "Board" means the board of directors of the Iowa ~~product development~~ seed capital corporation.

2. "Corporation" means the Iowa ~~product development~~ seed capital corporation.

5. "President" means the president of the Iowa ~~product development~~ seed capital corporation.

Sec. 17. Section 15E.83, Code 1993, is amended to read as follows:

15E.83 ~~PRODUCT DEVELOPMENT~~ SEED CAPITAL CORPORATION.

1. ~~There is created a corporate body called the "Iowa product development corporation". The corporation is a quasi-public instrumentality and the exercise of the powers granted to the corporation in this division is an essential governmental function.~~ The Iowa seed capital corporation shall be incorporated under chapter 504A. The purpose of the corporation shall be to provide seed capital to start-up and emerging growth companies in Iowa that are bringing new products and processes to the marketplace, and it shall be the goal of the corporation to financially support the establishment and growth of start-up and emerging growth companies that can contribute to the economic diversity of the state and provide general and specific economic benefits to the state. The corporation shall only provide seed capital or financial assistance to Iowa businesses. The corporation shall not be regarded as a state agency, except for purposes of chapters 17A and 69, and a member of the board is not considered a state employee, except for purposes of chapter 669. An individual employed by the corporation is a state employee for purposes of the Iowa public employees' retirement system, state health and dental plans, and other state employee benefit 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 corporation and any employees of the board or corporation except to the extent provided in this division. Chapters 21 and 22 shall apply to activities of the corporation and to employees of the board or corporation except to the extent provided in this division.

2. The corporation shall be governed by a board of seven directors who shall serve a term of four years. ~~Each term shall begin and end as provided in section 69.19. No more than a~~

~~simple majority of the members of the board shall belong to the same political party as provided in section 69.16.~~ Of the seven directors, four shall be persons experienced in business finance and employed at a bank or other financial institution, be a certified public accountant, be an attorney, or be a licensed stockbroker. Each director shall serve at the pleasure of the governor and shall be appointed by the governor, subject to confirmation by the senate pursuant to section 2.32. A director is eligible for reappointment. A vacancy on the board of directors shall be filled in the same manner as an original appointment. ~~For the initial appointments to the board of directors, the governor shall appoint three members whose terms shall commence upon appointment and shall expire April 30, 1985, and four members whose terms shall commence upon appointment and shall expire April 30, 1987.~~

3. The board of directors shall annually elect one member as chairperson and one member as secretary. The board may elect other officers of the corporation as necessary. Members shall be reimbursed for necessary expenses incurred in the performance of duties from funds appropriated to the ~~Iowa department of economic development~~ corporation.

4. Each director of the corporation shall take an oath of office and the record of each oath shall be filed in the office of the secretary of state.

5. The corporation shall receive information and cooperate with other agencies of the state and the political subdivisions of the state.

~~6. The corporation shall be a part of the Iowa department of economic development which shall provide all staff and administrative assistance. The corporation shall submit to the department for its approval all plans, programs, initiatives and budgets.~~

Sec. 18. Section 15E.86, Code 1993, is amended to read as follows:

15E.86 PRESIDENT.

The ~~director of the department of economic development~~ board shall ~~appoint~~ employ a president of the corporation who shall serve at the pleasure of the ~~director~~ board and shall receive the compensation determined by the ~~director~~ board. ~~The president is a state employee.~~ The president shall not be a member of the board of directors. The president is the chief administrative and operational officer of the corporation and shall direct and supervise the administrative affairs and the general management of the corporation subject to the direction and oversight of the ~~director~~ board. The president may employ other employees as designated by the board. The president shall provide copies of all minutes, documents, and other records of the corporation and shall provide a certificate which attests to truthfulness of the copies, if requested. Persons dealing with the corporation may rely upon the certificates. The president shall keep a record of all proceedings, documents, and papers filed with the corporation.

Sec. 19. Section 15E.87, subsection 1, Code 1993, is amended to read as follows:

1. To have perpetual succession as a corporate body and to adopt bylaws, policies, and procedures for the regulation of its affairs and conduct of its business consistent with the purposes of this division.

Sec. 20. Section 15E.87, subsection 4, Code 1993, is amended by striking the subsection.

Sec. 21. Section 15E.87, subsection 7, Code 1993, is amended to read as follows:

7. To employ assistants, agents, and other employees ~~who shall be state employees~~ and to engage consultants, attorneys, and appraisers as necessary or desirable to carry out the purposes of the corporation.

Sec. 22. Section 15E.88, Code 1993, is amended to read as follows:

15E.88 APPLICATIONS FOR FINANCIAL AID.

~~1. Applications for financial aid shall be forwarded, together with an application fee prescribed by the corporation, to the president of the corporation. The president, after preparing the necessary records for the corporation, shall forward each application to the staff of the corporation, for an investigation and report concerning the advisability of approving the financial aid for the company and concerning any other factors found relevant by the corporation. The investigation and report shall include but are not limited to the following:~~

~~a. The history of the applicant, its wage standards, job opportunities, and stability of employment.~~

~~b. The extent of the applicant's dependence on agriculture.~~

~~c. The applicant's past, present, and future financial condition and structure.~~

~~d. The applicant's pro forma income statements.~~

~~e. The present and future market prospects for the product.~~

~~f. The feasibility of the proposed project or invention to be given financial aid and the integrity of management.~~

~~g. The state of the project's development.~~

~~2. After receipt and consideration of the report and any other action the corporation finds necessary, the corporation shall approve or deny the application. The president shall promptly notify an applicant by certified mail of the disposition of its application. The corporation shall give priority to those applicants whose business is agriculture related or whose business is located in an area which the corporation determines has been severely adversely affected by depressed agricultural prices and whose proposed product or invention is to be used to convert all or a portion of the business to nonagriculture-related industrial or commercial activity or to create a new nonagriculture-related industrial or commercial business.~~

1. Applications for financial aid shall be received and considered by the corporation pursuant to rules adopted by the board pursuant to chapter 17A.

~~3~~ 2. Notwithstanding the requirements of chapter 21, relating to open meetings, and chapter 22, relating to examination of public records, the corporation shall keep as confidential those items on the application for financial aid that the applicant has specifically requested to be held in confidence. These items shall remain confidential until the applicant says otherwise or the corporation determines the items no longer need to be held confidential.

Sec. 23. Section 15E.89, Code Supplement 1993, is amended to read as follows:

15E.89 IOWA ~~PRODUCT DEVELOPMENT~~ SEED CAPITAL CORPORATION FUND.

1. There is created an "Iowa ~~product development~~ seed capital 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~~ seed capital corporation fund notwithstanding section 12.10. The money in the Iowa ~~product development~~ seed capital 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 section 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~~ seed capital 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.~~

2. Notwithstanding section 8.33, no part of ~~the Iowa product development corporation~~ this fund shall revert at or after the close of a fiscal year unless otherwise provided by the general assembly, but shall remain in the fund and appropriated for the purposes of this division. The board shall seek to repay the state for 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.

3. Upon dissolution of the corporation, all remaining moneys in the Iowa seed capital corporation fund, as well as the net proceeds realized by the corporation through the liquidation of the assets of the corporation, shall revert to the state.

Sec. 24. Section 15E.90, Code 1993, is amended to read as follows:

15E.90 ~~PRODUCT DEVELOPMENT~~ SEED CAPITAL CORPORATION FUND NOTES.

The corporation may issue Iowa ~~product development~~ seed capital corporation fund notes, the principal and interest of which shall be payable solely from the Iowa ~~product development~~ seed capital corporation fund established by this division. The fund notes of each issue shall be dated, shall mature at such times and may be made redeemable before maturity, at prices and under terms and conditions as determined by the corporation. The corporation shall determine the form and manner of execution of the fund notes, including any interest coupons to be attached, and shall fix the denominations and the places of payment of principal and interest, which may be any financial institution within or without the state or any agent, including the lender. If an officer whose signature or a facsimile of whose signature appears on fund notes or coupons ceases to be that officer before the delivery of the notes or coupons, the signature or facsimile is valid and sufficient for all purposes the same as if the officer had remained in office until delivery. The fund notes may be issued in coupon or in registered form, or both, as the corporation determines, and provision may be made for the registration of coupon fund notes as to principal alone and also as to both principal and interest, and for the conversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the interchange of registered and coupon fund notes. Fund notes shall bear interest at rates as determined by the corporation and may be sold in a manner, either at public or private sale, and for a price as the corporation determines to be best to effectuate the purposes of the Iowa ~~product development~~ seed capital corporation fund. The proceeds of fund notes shall be used solely for the purposes for which issued and shall be disbursed in a manner and under restrictions as provided in this division and in the resolution of the corporation providing for their issuance. The corporation may provide for the replacement of fund notes which become mutilated or are destroyed or lost.

Sec. 25. Section 15E.92, Code Supplement 1993, is amended to read as follows:

15E.92 REPORTING AND FUND SOLVENCY.

The chairperson of the corporation on or before 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~~ seed capital 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. 26. Section 15E.152, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Establishment of a seed capital fund which shall be administered by the board to provide seed capital for the commercialization of product, or the development of processes or materials through research at Iowa colleges and universities or by private industry.

**Sec. 27.* *Section 38.3, Code 1993, is amended to read as follows:*

38.3 NONPROFIT CORPORATION.

*The institute as a corporation has perpetual succession until the existence of the corporation is terminated by law. If the corporation is terminated, the ~~rights and properties of the corporation shall pass to the state. However,~~ debts and other financial obligations shall not succeed to the state.**

Sec. 28. Section 428A.8, unnumbered paragraph 1, Code 1993, is amended to read as follows:

On or before the tenth day of each month the county recorder shall determine and pay to the treasurer of state eighty-two and three-fourths percent of the receipts from the real estate transfer tax collected during the preceding month and the treasurer of state shall deposit ninety-five percent of the receipts in the general fund of the state and transfer five percent of the receipts to the Iowa finance authority for deposit in the housing improvement fund created in section 16.100.

*Item veto; see message at end of the Act

Sec. 29. 1992 Iowa Acts, chapter 1244, section 1, subsection 2, paragraph e, as amended by 1993 Iowa Acts, chapter 180, section 46, 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 15E.169 through 15E.171. If the small business investment company or another entity for which the funds are to be used is not organized within ~~twenty-four~~ thirty-six months of the effective date of this Act, unused funds shall revert to the general fund of the state:

..... $ 200,000

The Iowa business investment corporation established pursuant to section 15E.169 is directed to develop a proposal, to be presented to the general assembly no later than January 9, 1995, for a venture capital company to facilitate the development of Iowa small businesses. The proposal shall include recommendations relating to the organization, capitalization, consolidation, and coordination of programs or initiatives intended to facilitate investments in seed and venture capital for Iowa small businesses.

Sec. 30. *LEASE-PURCHASE — BUDGET SUBMISSION. This section applies to each state agency receiving an appropriation in this Act. The departmental estimate required under section 8.23 for the fiscal period beginning July 1, 1995, which includes the state agency, shall provide an itemized list indicating the nature and amount of each lease-purchase contract payment included in the estimate for proposed contracts which have not been reported by the state agency to the legislative fiscal committee of the legislative council pursuant to section 8.46 prior to the submission of the estimate. The governor shall include in the governor's budget for the fiscal year beginning July 1, 1995, a listing indicating the nature and amount of each lease-purchase contract which was itemized in a departmental estimate in accordance with this section and is included in the governor's budget. A state agency receiving an appropriation in this Act shall not enter into a lease-purchase contract during the fiscal year beginning July 1, 1995, unless the contract was itemized in a departmental estimate and included in the governor's budget in accordance with this section.

Sec. 31. BUDGET UNIT DESIGNATIONS. The department of management shall, prior to January 15, 1995, conform all budget unit designations to the designations used in the Code.

Sec. 32. *Chapter 38, Code 1993, is repealed, effective July 1, 1995.

Approved May 13, 1994, except the items which I hereby disapprove and which are designated as Section 27 in its entirety; Section 30 in its entirety; and Section 32 in its entirety. My reasons for vetoing these items are delineated in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.

TERRY E. BRANSTAD, *Governor*

Dear Madam Secretary:

I hereby transmit House File 2415, an Act appropriating funds to the Department of Economic Development, the Iowa Finance Authority, and the Wallace Technology Transfer Foundation, and making statutory changes relating to economic development, and providing effective dates.

House File 2415 is, therefore, approved on this date with the following exception which I hereby disapprove.

I am unable to approve the items designated as Sections 27 and 32, in their entirety. These provisions would repeal the Iowa Peace Institute effective July 1, 1995. The Peace Institute is performing valuable services and should not be terminated.

*Item veto; see message at end of the Act

I am unable to approve the item designated as Section 30, in its entirety. This provision restricts executive branch agencies in their ability to enter into lease-purchase agreements. While the additional review and oversight of lease-purchase contracting by state agencies may be worthwhile, this provision does not allow agencies the flexibility necessary to respond to situations which cannot be planned, e.g. emergencies and new federal requirements.

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 2415 are hereby approved as of this date.

Sincerely,
TERRY E. BRANSTAD, *Governor*

CHAPTER 1202

ANNUAL MEETING OF ADJUTANTS GENERAL ASSOCIATION

H.J.R. 2007

A JOINT RESOLUTION authorizing the temporary use and consumption of alcoholic beverages in the State Capitol in conjunction with the 1994 annual meeting of the Adjutants General Association of the United States.

WHEREAS, for the first time in the 78-year history of the Adjutants General Association of the United States, the state of Iowa has the honor of having been selected to host the 1994 annual meeting of the Adjutants General Association of the United States in Des Moines from May 22-25, 1994; and

WHEREAS, this prestigious national meeting offers an opportunity for the nation's key military leaders of the national guard of the several states, territories, and the District of Columbia to address the major issues facing state military departments in the 1990s and beyond; and

WHEREAS, social events are held in conjunction with the business sessions of this annual meeting, and Iowa's unique state capitol is an optimal location for one of the social events for this national meeting; and

WHEREAS, wine and other alcoholic beverages with an alcohol content of more than five percent by weight are customarily served as an accompaniment to the food and entertainment provided at these social events; and

WHEREAS, under 401 IAC 1.6(6), which prohibits the consumption of alcoholic beverages on the capitol complex, it is not possible to serve wine and other alcoholic beverages at social events in the State Capitol; NOW THEREFORE,

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

Section 1. Notwithstanding 401 IAC 1.6(6) and any contrary provisions of chapter 123, prohibiting the use and consumption of alcoholic beverages in public places, alcoholic beverages may be used and consumed within the State Capitol at a social event, to be held between May 22, 1994, and May 25, 1994, hosted and organized in whole or in part by the Adjutants General Association of the United States if the person providing the food and alcoholic beverages at the social event possesses an appropriate valid liquor control license. For the purpose of this section and section 123.95, the State Capitol is a private place.

Approved March 22, 1994

CHAPTER 1203

BRIEFS AND MEMORANDA; DEPOSITIONS; LATE SETTLEMENT

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF CHANGES IN THE IOWA RULES OF CIVIL PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1993 REGULAR SESSION OF THE SEVENTY-FIFTH GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed amendments and hereby reports on this date to the Chair of the Senate Judiciary Committee concerning amendments to Iowa Rules of Civil Procedure 82(d), 152(b), and 181.4* as shown in the attached Exhibits "A", "B", and "C".

Pursuant to Iowa Code section 602.4202(2), these changes are to take effect January 3, 1994.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
October 15, 1993

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the thirtieth day of October, 1993, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

*See Chapter 1205 herein relating to suspension of the amendments to R.C.P. 181.4

EXHIBIT "A"

82. Service and filing of pleadings and other papers.

d. Filing. All papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter; however, no party shall file legal briefs or memoranda unless expressly ordered by the court. Such briefs and memoranda shall be served upon the parties with an original copy delivered to the presiding judge. The party submitting the legal brief or memoranda shall file a statement certifying compliance with this rule. Whenever these rules or the rules of appellate procedure require a filing with the district court or its clerk within a certain time, the time requirement shall be tolled when service is made, provided the actual filing is done within a reasonable time thereafter.

EXHIBIT "B"

152. Certification and return—copies.

b. Depositions ~~may be filed, but filing is not required unless requested by the court. If requested by the court, the party who ordered the original of the deposition shall promptly file the original. Any party may file a deposition, which may be a copy~~ shall be filed only with the approval of the court upon showing good cause or upon the court's own order.

EXHIBIT "C"

181.4. Fee for settlement ~~of jury trial~~.

a. Assessment. In the event notice of settlement is given later than two full ~~working~~ days, excluding Saturdays, Sundays and holidays scheduled by the administrator, before: (1) a civil action is scheduled to be tried to a jury or is reached for jury trial, whichever is later, a fee of $500 shall be assessed as court costs; or (2) before a nonjury civil action is scheduled to be tried or is reached for trial a fee of $200 shall be assessed as court costs.

b. Application. The assessment of fees pursuant to this rule shall not be waived except in child support and child custody cases. The assessment extends to those cases in which trial has already commenced.

c. Collection. Fees ~~so~~ collected pursuant to this rule shall be remitted by the clerk ~~to the treasurer of the state to be deposited in the general fund of the state~~ to the state court administrator for deposit in the general fund of the state by the treasurer of the state.

CHAPTER 1204

INTERROGATORIES; TRANSFER TO PROPER COUNTY

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: MS. DIANE BOLENDER, SECRETARY OF THE LEGISLATIVE COUNCIL OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.42091 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Secretary of the Legislative Council concerning amendments to Iowa Rules of Civil Procedure 126(d) and 175 as shown in the attached Exhibits "A" and "B".

Pursuant to Iowa Code section 602.4202(2), the changes to Rule 126(d) are to take effect March 1, 1994. Changes to Rule 175 are to take effect July 1, 1994.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
November 30, 1993

ACKNOWLEDGMENT

I, the undersigned, Secretary of the Legislative Council hereby acknowledge delivery to me on the sixth day of December, 1993, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Diane E. Bolender
Secretary of the Legislative Council

EXHIBIT "A"

126. Interrogatories to parties.

d. Notwithstanding the provisions of R.C.P. 82 "d," copies of the interrogatories which are served ~~need~~ shall not be filed with the clerk unless approved by the court for good cause. Parties who serve interrogatories shall serve and file a notice of serving interrogatories stating the parties upon whom interrogatories were served, the numbers of the interrogatories, and the date of service.

EXHIBIT "B"

175. Action brought in wrong county.

a. An action brought in the wrong county may be prosecuted there until termination, unless a defendant, before answer, moves for its change to the proper county. Thereupon the court shall order the change at plaintiff's costs, which may include reasonable compensation for defendant's trouble and expense, including attorney's fees, in attending in the wrong county.

b. If all such costs are not paid ~~within a time to be fixed by the court, or the papers are not filed in the proper court~~ within twenty days ~~after such order~~ of the transfer order, the action shall be dismissed. Upon payment of the costs, the clerk shall forthwith transmit to the proper court the transcript of the proceedings, with any original papers, an authenticated copy of which shall be retained. The case shall be docketed in the second court without fee and shall proceed.

CHAPTER 1205

RULE OF CIVIL PROCEDURE 181.4 — AMENDMENTS SUSPENDED

IN THE SUPREME COURT OF IOWA

ORDER

IN THE MATTER OF IOWA
RULE OF CIVIL PROCEDURE
181.4

By order of this court en banc, the effective date of the amendments to Iowa Rule of Civil Procedure 181.4 contained in the October 15, 1993, report of the supreme court is hereby suspended until further order of the court.

Dated this sixteenth day of December, 1993.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

CHAPTER 1206

CERTIORARI – APPEAL

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF CIVIL PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1993 REGULAR SESSION OF THE SEVENTY-FIFTH GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.42091 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 Civil Procedure 318 as shown in the attached Exhibit "A".

Pursuant to Iowa Code section 602.4202(2), the changes to Rule 318 are to take effect March 1, 1994.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
December 28, 1993

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the eleventh day of January, 1994, the Report of the Supreme Court pertaining to the Iowa Rules of Civil Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

EXHIBIT "A"

318. Appeal. Appeal to the supreme court lies from a judgment of the district court in a certiorari proceeding, and will be governed by the rules applicable to appeals in ordinary actions. Appeal is discretionary when the order or judgment sought to be reviewed is itself a discretionary review of another tribunal, board, or officer.

CHAPTER 1207

APPEAL FROM INTERLOCUTORY ORDERS

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF APPELLATE PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1993 REGULAR SESSION OF THE SEVENTY-FIFTH GENERAL ASSEMBLY OF THE STATE OF IOWA.

Pursuant to Iowa Code sections 602.4201 and 602.4202, the Supreme Court of Iowa has prescribed and hereby reports on this date to the Chair of the Senate Judiciary Committee concerning an amendment to Iowa Rule of Appellate Procedure 2(a) 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
May 13, 1993

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the seventh day of June, 1993, the Report of the Supreme Court pertaining to the Iowa Rules of Appellate Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

*See Chapter 1208 herein relating to the effective date of this amendment

EXHIBIT "A"

Rule 2. From interlocutory orders.

a. Any party aggrieved by an interlocutory ruling or decision, including a party ~~one appearing specially~~ whose objections to jurisdiction have been overruled, may apply to the supreme court or any justice thereof to grant an appeal in advance of final judgment. Such appeal may be granted, after service of the application and hearing as provided in rules 22 and 30, rules of appellate procedure, on finding that such ruling or decision involves substantial rights and will materially affect the final decision and that a determination of its correctness before trial on the merits will better serve the interest of justice. No such application is necessary where the appeal is, pursuant to rule 1, rules of appellate procedure, from a final adjudication in the trial court under R.C.P. 86.

b. The order granting such appeal may be on terms advancing it for prompt submission. It shall stay further proceedings below and may require bond.

CHAPTER 1208

RULE OF APPELLATE PROCEDURE 2(a) –
EFFECTIVE DATE OF AMENDMENT CHANGED

IN THE SUPREME COURT OF IOWA

IN THE MATTER OF A CHANGE IN THE IOWA RULES OF APPELLATE PROCEDURE	)))	REPORT OF THE SUPREME COURT

TO: THE HONORABLE AL STURGEON, CHAIR OF THE SENATE JUDICIARY COMMITTEE OF THE 1993 REGULAR SESSION OF THE SEVENTY-FIFTH GENERAL ASSEMBLY OF THE STATE OF IOWA.

On May 13, 1993, this court reported to the Chair of the Senate Judiciary Committee concerning an amendment to Iowa Rule of Appellate Procedure 2(a) making the change effective July 1, 1993. The effective date of the rule is hereby amended to reflect an effective date of January 3, 1994.

Respectfully submitted,

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

Des Moines, Iowa
May 17, 1993

ACKNOWLEDGMENT

I, the undersigned, Chair of the Senate Judiciary Committee hereby acknowledge delivery to me on the twenty-first day of May, 1993, the Report of the Supreme Court pertaining to the Iowa Rules of Appellate Procedure.

/s/ Al Sturgeon
Chair of the Senate Judiciary Committee

CHAPTER 1209

INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS

IN THE SUPREME COURT OF IOWA

ORDER

IN THE MATTER OF THE SUPREME
COURT RULES ON THE QUALIFICATIONS
AND COMPENSATION OF INTERPRETERS
FOR HEARING IMPAIRED PERSONS

By action of this court en banc, the Supreme Court Rules on the Qualifications and Compensation of Interpreters for Hearing Impaired Persons is hereby amended, effective January 3, 1994, as shown in the attached Exhibit "A".*

Dated this twentieth day of August, 1993.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

*See Chapter 1210 herein for corrected version of these amendments

EXHIBIT "A"

SUPREME COURT RULES ON THE QUALIFICATIONS AND COMPENSATION OF INTERPRETERS FOR DEAF AND HARD-OF-HEARING ~~HEARING IMPARIED~~ PERSONS

Rule 1. Appointment and qualifications of interpreters. When required to appoint an interpreter for a deaf or hard-of-hearing ~~hearing impaired~~ person pursuant to Iowa Code section 622B.2, the court or administrative agency shall select an interpreter from the current directory of qualified interpreters for a deaf or hard-of-hearing ~~hearing impaired~~ persons furnished by the service program for the deaf of the Iowa state department of health and available from the department of health or the supreme court administrators office. Interpreters listed in the directory shall be certified under the National Evaluation System of the Registry of Interpreters for the Deaf and shall hold a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), or a specialist certificate: legal (SC:L), commensurate with their training and experience. Selection of a particular interpreter shall be based on availability, proximity to the venue of the proceeding, and the level of interpreter expertise needed regarding the complexity of the proceeding and the deaf or hard-of-hearing ~~hearing impaired~~ persons role in the proceeding.

Rule 2. Compensation—appointment of more than one interpreter. After selecting an appropriate interpreter, the court or administrative agency shall enter an order appointing the interpreter and setting the level of compensation for the interpreter. Where the a deaf or hard-of-hearing ~~hearing impaired~~ person is a party to a complex proceeding or is a witness giving lengthy testimony, the court or administrative agency may, in its discretion, appoint more than one interpreter. An interpreter, other than a state employee, appointed under Iowa Code section 622B.2, shall be entitled to reasonable compensation. Appointed interpreters are also entitled to compensation for mileage at the same rate paid witnesses in district court.

Rule 3. Claim for compensation. After the close of proceedings the interpreter shall submit to the court or administrative agency a voucher specifically listing the hours spent on the appointment and any mileage claims. Upon review and approval of the voucher, the court or administrative agency shall enter an order setting the total amount of compensation due the interpreter and directing such compensation paid out of ~~court~~ county funds or administrative agency funds~~, or charged as costs~~ as provided in Iowa Code section 622B.7.

CHAPTER 1210

INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS — CORRECTED VERSION

IN THE SUPREME COURT OF IOWA

O R D E R

IN THE MATTER OF THE SUPREME COURT RULES ON THE QUALIFICATIONS AND COMPENSATION OF INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS

The Supreme Court Rules on the Qualifications and Compensation of Interpreters for Deaf or Hard-of-Hearing Persons is hereby amended to correct typographical errors, effective immediately, as shown in the attached Exhibit "A".

Dated this sixteenth day of December, 1993.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin

ARTHUR A. McGIVERIN, Chief Justice

EXHIBIT "A"

SUPREME COURT RULES ON THE QUALIFICATIONS AND COMPENSATION OF INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS

Rule 1. Appointment and qualifications of interpreters. When required to appoint an interpreter for a deaf or hard-of-hearing person pursuant to Iowa Code section 622B.2, the court or administrative agency shall select an interpreter from the current directory of qualified interpreters for ~~a~~ deaf or hard-of-hearing persons furnished by the service program for the deaf of the Iowa state department of health and available from the department of health or the supreme court administrator's office. Interpreters listed in the directory shall be certified under the National Evaluation System of the Registry of Interpreters for the Deaf and shall hold a valid comprehensive skills certificate (CSC), a master comprehensive skills certificate (MCSC), or a specialist certificate: legal (SC:L), commensurate with their training and experience. Selection of a particular interpreter shall be based on availability, proximity to the venue of the proceeding, and the level of interpreter expertise needed regarding the complexity of the proceeding and the deaf or hard-of-hearing person's role in the proceeding.

Rule 2. Compensation—appointment of more than one interpreter. After selecting an appropriate interpreter, the court or administrative agency shall enter an order appointing the interpreter and setting the level of compensation for the interpreter. Where ~~the~~ a deaf or hard-of-hearing person is a party to a complex proceeding or is a witness giving lengthy testimony, the court or administrative agency may, in its discretion, appoint more than one interpreter. An interpreter~~, other than a state employee,~~ appointed under Iowa Code section 622B.2~~,~~ shall be entitled to reasonable compensation. Appointed interpreters are also entitled to compensation for mileage at the same rate paid witnesses in district court.

Rule 3. Claim for compensation. After the close of proceedings the interpreter shall submit to the court or administrative agency a voucher specifically listing the hours spent on the appointment and any mileage claims. Upon review and approval of the voucher, the court or administrative agency shall enter an order setting the total amount of compensation due the interpreter and directing such compensation paid out of county funds or administrative agency funds as provided in Iowa Code section 622B.7.

CHAPTER 1211

QUALIFICATIONS OF INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS

IN THE SUPREME COURT OF IOWA

ORDER

IN THE MATTER OF THE SUPREME COURT RULES ON THE QUALIFICATIONS AND COMPENSATION OF INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS

The Supreme Court Rules on the Qualifications and Compensation of Interpreters for Deaf or Hard-of-Hearing Persons is hereby amended, effective February 4, 1994, as shown in the attached Exhibit "A".

Dated this third day of January, 1994.

THE SUPREME COURT OF IOWA

/s/ Arthur A. McGiverin
ARTHUR A. McGIVERIN, Chief Justice

EXHIBIT "A"

SUPREME COURT RULES ON THE QUALIFICATIONS AND COMPENSATION OF INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS

Rule 1. Appointment and qualifications of interpreters. When required to appoint an interpreter for a deaf or hard-of-hearing person pursuant to Iowa Code section 622B.2, the court or administrative agency shall select an interpreter from the current directory of qualified interpreters for deaf or hard-of-hearing persons furnished by the service program for the deaf of the Iowa state department of ~~health~~ human rights and available from the department of ~~health~~ human rights or the supreme court administrator's office. Interpreters listed in the directory shall be certified under the National ~~Evaluation~~ Testing System of the Registry of Interpreters for the Deaf and shall hold (1) a valid comprehensive skills certificate (CSC), (2) both a certificate of interpretation (CI) and a certificate of transliteration (CT), (3) a master comprehensive skills certificate (MCSC), or (4) a specialist certificate: legal (SC:L), commensurate with their training and experience. Selection of a particular interpreter shall be based on availability, proximity to the venue of the proceeding, and the level of interpreter expertise needed regarding the complexity of the proceeding and the deaf or hard-of-hearing person's role in the proceeding.

ANALYSIS OF TABLES

1994 REGULAR SESSION

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTION TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

1994 REGULAR SESSION

SENATE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
94	1002	2126	1124	2237	1020
216	1056	2133	1125	2242	1092
218	1004	2153	1058	2244	1064
294	1010	2157	1136	2245	1065
413	1074	2169	1126	2250	1112
2009	1082	2172	1109	2261	1066
2013	1001	2186	1137	2263	1113
2016	1086	2190	1110	2264	1158
2034	1005	2196	1150	2265	1093
2038	1164	2199	1084	2268	1139
2041	1003	2201	1088	2272	1185
2044	1057	2203	1151	2273	1140
2049	1147	2205	1085	2276	1011
2051	1156	2206	1111	2277	1152
2053	1134	2215	1166	2279	1167
2057	1165	2216	1157	2282	1176
2060	1135	2217	1189	2287	1159
2066	1106	2218	1187	2288	1114
2069	1033	2219	1180	2297	1160
2071	1148	2221	1059	2300	1177
2074	1149	2223	1169	2307	1153
2080	1087	2224	1063	2311	1170
2086	1107	2226	1138	2313	1186
2087	1083	2229	1188	2314	1198
2089	1184	2230	1127	2318	1181
2091	1192	2231	1089	2319	1172
2092	1108	2232	1090	2326	1195
2107	1122	2234	1175	2329	1190
2109	1123	2236	1091	2330	1199

CONVERSION TABLES OF SENATE AND HOUSE FILES AND JOINT RESOLUTION TO CHAPTERS OF THE ACTS OF THE GENERAL ASSEMBLY

1994 REGULAR SESSION

HOUSE FILES

File No.	Acts Chapter	File No.	Acts Chapter	File No.	Acts Chapter
43	1007	2146	1105	2342	1053
109	1042	2149	1154	2343	1073
121	1128	2153	1069	2350	1196
181	1102	2155	1161	2352	1142
259	1034	2156	1028	2353	1054
307	1115	2169	1061	2354	1036
403	1094	2172	1009	2358	1080
425	1012	2179	1021	2362	1030
455	1178	2180	1008	2365	1037
545	1095	2190	1040	2366	1179
582	1077	2192	1062	2370	1038
605	1013	2194	1019	2372	1120
606	1014	2197	1070	2375	1100
618	1116	2199	1045	2376	1200
637	1103	2204	1182	2377	1174
642	1173	2217	1046	2383	1131
2003	1129	2218	1071	2384	1121
2013	1006	2230	1097	2385	1031
2018	1060	2232	1032	2387	1132
2033	1043	2241	1079	2391	1039
2037	1024	2261	1130	2392	1081
2049	1141	2267	1047	2401	1055
2055	1044	2270	1048	2403	1076
2070	1078	2280	1049	2407	1101
2086	1015	2284	1050	2410	1171
2094	1025	2286	1117	2411	1193
2099	1104	2302	1041	2413	1143
2102	1016	2308	1029	2415	1201
2110	1026	2309	1098	2418	1183
2115	1017	2311	1035	2419	1133
2116	1075	2313	1051	2421	1144
2118	1067	2314	1072	2422	1168
2120	1022	2318	1118	2426	1145
2124	1023	2321	1052	2428	1146
2126	1018	2323	1194	2429	1191
2133	1096	2325	1099	2430	1163
2134	1027	2326	1162	2433	1197
2145	1068	2337	1119	2435	1155

HOUSE JOINT RESOLUTION

2007	1202

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND CODE SUPPLEMENT 1993
1994 REGULAR SESSION

S immediately following Code chapter or section indicates Code Supplement

Code Chapter or Section	Acts Chapter
1.15	1173, §1
2.32	1184, §1
2.68	1023, §125
2.100	1023, §1
2B.12(7a)	1107, §19
7A.3 S	1107, §1
8	1181, §2; 1199, §1
8.22A	1181, §4
8.31	1063, §1
8.39(2)	1181, §6; 1199, §44
8.53	1181, §7
8.54	1181, §1
8.54(1)	1181, §5
8.55(1)	1181, §8
8.56(1)	1181, §9
8.57	1181, §11
8.57(2,3)	1181, §10
8.60 S	1107, §32; 1199, §64
8A.1 S	1114, §1
9E.9(5)	1167, §1,122
9H.1 S	1153, §1
9H.1(18) S	1153, §2
9H.1(19) S	1153, §3
9H.4 S	1153, §4,5
9H.5 S	1153, §6
9H.5A S	1039, §1
10A	1112, §1
10A.104(8) S	1076, §1
11.5B(7)	1187, §16
11.27	1023, §2
12.8	1001, §1
12.38	1188, §31
12.43	1201, §13
12A	1001, §5
12B.10(5)	1012, §1
12C.14	1029, §15,33
12C.23(2)	1023, §3
13.25 S	1106, §1
13B.4(3,4) S	1187, §17
13B.4(6) S	1107, §20
13B.9	1187, §19
13B.9(5)	1187, §18
15	1008, §3-13
15.102(5)	1076, §2
15.108(1e) S	1023, §4; 1199, §16
15.241	1076, §3
15.251(3) S	1199, §17
15.283(4)	1107, §2
15.308(2)	1008, §2
15.308(2a)	1199, §18
15.313(2b)	1119, §2
15.313(3)	1119, §3
15.318	1119, §4; 1201, §14
15A	1008, §17
15A.1(1)	1008, §14
15A.1(2)	1008, §15
15A.2	1008, §16
15E.81	1201, §15
15E.82(1,2,5)	1201, §16
15E.83	1201, §17
15E.86	1201, §18
15E.87(1)	1201, §19
15E.87(4)	1201, §20
15E.87(7)	1201, §21
15E.88	1201, §22
15E.89 S	1201, §23
15E.90	1201, §24
15E.92 S	1201, §25
15E.111	1119, §5
15E.112	1119, §6
15E.152 S	1201, §26
16	1155, §1-7; 1196, §20
16.62(1)	1023, §74
16.71	1023, §75
18	1184, §5-12,14; 1195, §1
18.3(5)	1184, §2
18.6(8)	1076, §4
18.12(8)	1188, §32
18.115(4) S	1188, §33
18.115(5) S	1119, §7
18.115(6) S	1188, §34
18.117	1188, §35
18.133 S	1184, §4
18.133(1-4) S	1184, §3
18.134(1) S	1184, §13
18.135	1184, §31
18.136 S	1184, §16-20
18.136(1-4,6-10,12,14) S	1184, §15
18.137	1184, §21
19A.3(22)	1119, §8
19A.30	1183, §1
19B.2	1109, §1
20.4(13)	1119, §9
22.7 S	1064, §1; 1174, §1
22.7(30) S	1023, §76; 1092, §1
24.48	1023, §5
25B.2	1173, §2
25B.3(2)	1173, §3
25B.6	1173, §4
34.1(1)	1023, §6
34A.2(6e) S	1199, §45
35.9	1200, §9
35A.3	1107, §3
35B.3	1007, §1
35B.4	1007, §2
35B.6(1b)	1107, §4
35C.1(2)	1189, §16
39.3 S	1169, §65; 1180, §1
39.3(10) S	1169, §43
42.3(2,3)	1179, §1
42.3(4b)	1179, §2
42.4(6)	1042, §1
42.4(8)	1179, §3
43.5	1169, §44
43.6(2)	1180, §2
43.14	1180, §3
43.18	1023, §77; 1180, §4
43.26	1180, §5
43.41-43.43	1169, §64
43.67	1180, §6
43.77	1180, §8
43.77(4)	1180, §7
43.120	1169, §64
44.3	1180, §9
44.3(2)	1023, §78
45.1 S	1180, §10

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
45.3	1023, §79; 1180, §11
47.1 **S**	1169, §45
47.2(1)	1169, §46
47.4	1169, §66
47.7(4)	1169, §47
47.8(4) **S**	1169, §48
48.1-48.12	1169, §66
48.15	1169, §66
48.16 **S**	1169, §67
48.17	1169, §66
48.20-48.23	1169, §66
48.29	1169, §66
48.30	1169, §66
48.31 **S**	1169, §67
48.32	1169, §66
49.3	1179, §4,5
49.4	1179, §6
49.5 **S**	1179, §7
49.5(1-3) **S**	1179, §8
49.6	1179, §9
49.7	1179, §10
49.8(4)	1179, §11,12
49.11 **S**	1169, §64; 1179, §13
49.11(2) **S**	1180, §12
49.27	1169, §64
49.28	1169, §49
49.30	1169, §64
49.43	1169, §64
49.73(1) **S**	1180, §13
49.74	1169, §64
49.77	1169, §50
49.77(1)	1180, §14
49.80	1169, §64
49.81	1169, §64
49.81(4)	1169, §51
49.82	1180, §15
49.84	1180, §16
49.104(2,3,5)	1180, §17
49.105	1169, §64
49.124	1180, §18
50.7	1169, §64
50.8	1169, §64
50.19	1169, §52
50.22	1169, §53
50.48(4) **S**	1180, §19
52.4	1180, §20
52.40(1) **S**	1180, §21
53.1 **S**	1169, §65
53.2	1169, §54
53.7	1169, §64
53.8	1169, §64
53.11 **S**	1169, §65
53.15	1169, §64
53.17	1169, §64
53.17(2)	1180, §22
53.19	1169, §64
53.22 **S**	1169, §65
53.22(2) **S**	1180, §23
53.22(5) **S**	1180, §24
53.25	1169, §64
53.37	1180, §25
53.38	1169, §55
53.39	1169, §64; 1180, §26
53.40	1180, §27
53.43	1180, §28
53.51	1180, §29
53.53	1169, §56; 1180, §30
56.2(5) **S**	1023, §80; 1180, §31
56.2(15) **S**	1180, §32
56.5(2f) **S**	1180, §33
56.5A **S**	1023, §81; 1180, §34
56.7(2)	1180, §35
56.13 **S**	1180, §36
56.14	1178, §1
56.15(4) **S**	1178, §2
68B.2(1) **S**	1092, §2
68B.2(14) **S**	1092, §3
68B.2(25) **S**	1092, §4
68B.22(4) **S**	1092, §6
68B.22(4j) **S**	1092, §5
68B.22(8) **S**	1092, §7
68B.32B(1) **S**	1092, §8
68B.35(5) **S**	1092, §9
68B.35A **S**	1023, §82
68B.36(2,4,5) **S**	1023, §83; 1092, §10
68B.37(1b) **S**	1092, §11
68B.37(3) **S**	1092, §12
69.8(5)	1180, §37
69.14A(1a)	1180, §38
69.14A(1b)	1180, §39
69.14A(2b)	1180, §40
70A	1188, §36
70A.20 **S**	1022, §1
70A.24	1173, §42
72.5(1,3)	1173, §5
73.16(2)	1076, §5
80	1080, §1
80.9(2d)	1154, §1
80.25	1023, §7
80B.11 **S**	1172, §1
80B.11B	1189, §17
85.27	1065, §1,2
85.31(1)	1065, §3
85.33(3)	1065, §4
85.34	1065, §7
85.34(2)	1065, §5
85.34(3)	1065, §6
85.59 **S**	1171, §1
86	1064, §2
87	1066, §3
87.1	1066, §1
87.2	1066, §2
87.11D	1107, §5
87.12	1066, §8
87.14	1066, §8
87.15	1066, §4
87.16	1066, §5
88.5(12) **S**	1023, §84
88B.3(4)	1057, §1
88B.5(1)	1057, §2
88B.9(1,3)	1057, §3
88B.11	1057, §4
96.4	1066, §6
96.14(3)	1116, §1
96.40(11)	1066, §7
97A	1183, §9
97A.1(13)	1183, §2
97A.3	1183, §3
97A.5 **S**	1183, §5
97A.5(8) **S**	1183, §4
97A.6(1)	1183, §6
97A.6(2d)	1183, §8
97A.6[2d(2)]	1183, §7
97A.8(1)	1183, §12
97A.8(1h)	1183, §11
97A.8[1f(6,7)]	1183, §10
97B	1183, §13,25,26,48

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
97B.5	1001, §2
97B.7(2b)	1001, §3
97B.25	1023, §8; 1183, §15
97B.41(8a) **S**	1183, §16
97B.41(8b) **S**	1183, §19
97B.41[8b(1)] **S**	1183, §17
97B.41[8b(4)] **S**	1183, §18
97B.41(12) **S**	1183, §20,97
97B.41(15a) **S**	1183, §21
97B.41(18) **S**	1183, §22
97B.42	1183, §23,24
97B.45	1183, §27
97B.46	1183, §28
97B.48(1)	1183, §29
97B.49(13a,b) **S**	1183, §30
97B.49(13d) **S**	1183, §31
97B.49(16) **S**	1183, §41,42
97B.49[16a(4)] **S**	1183, §32
97B.49(16b) **S**	1183, §33
97B.49(16c) **S**	1183, §34
97B.49(16d) **S**	1183, §39
97B.49[16d(2)] **S**	1183, §35
97B.49[16d(4)] **S**	1183, §36
97B.49[16d(6)] **S**	1183, §37
97B.49[16d(8)] **S**	1183, §38
97B.49(16j) **S**	1183, §40
97B.50(1)	1183, §43
97B.50(2)	1183, §44
97B.53(3)	1183, §45,97
97B.53(6)	1183, §46,97
97B.53(7)	1183, §47,97
97B.54	1183, §88
97B.56	1183, §49
97B.61	1183, §50
97B.66 **S**	1183, §51,97
97B.70	1183, §52,97
97B.72 **S**	1183, §53,97
97B.72A(1) **S**	1183, §54,97
97B.72A(2) **S**	1183, §55
97B.73 **S**	1183, §56
97B.73A **S**	1183, §57,97
97B.74 **S**	1183, §58,97
97B.80 **S**	1183, §59
99A.4	1173, §6
99A.7	1173, §7
99B	1062, §6
99B.1(21)	1062, §1
99B.2(2)	1062, §2
99B.6(1k)	1021, §1
99B.7	1062, §5
99B.7(1c)	1062, §3
99B.7(1m)	1062, §4
99D.7(19)	1100, §1
99D.9(1)	1021, §2
99D.11(6b)	1021, §3
99D.11(7)	1021, §4
99D.15(3c)	1107, §6
99D.17 **S**	1107, §33
99D.23(4)	1100, §2
99D.24(2)	1021, §5
99D.25(1b)	1100, §3
99D.25(6)	1100, §4
99D.25A(7)	1100, §5
99E.10(1a) **S**	1107, §34; 1186, §32; 1199, §73
99E.18(2)	1021, §6
99E.31	1199, §19
99E.32	1199, §19
99E.33	1199, §19
99F	1021, §13; 1199, §46
99F.1	1021, §9
99F.1(8)	1021, §7
99F.1(10)	1021, §8
99F.1(15)	1021, §7
99F.4(2) **S**	1107, §35
99F.4(4) **S**	1021, §10
99F.4(17) **S**	1021, §11
99F.4(20) **S**	1021, §12
99F.5(1)	1021, §14
99F.6(4)	1021, §15
99F.7 **S**	1021, §18
99F.7(5a) **S**	1021, §16
99F.7(10c) **S**	1021, §17
99F.9	1021, §24
99F.9(2)	1021, §19
99F.9(3)	1021, §20
99F.9(4)	1021, §21
99F.9(5)	1021, §22
99F.9(6)	1021, §23
99F.9(7)	1021, §22
99F.11	1021, §25
99F.11(3)	1021, §26; 1107, §36; 1186, §33; 1199, §73,75
99F.15(2)	1021, §27
99F.15(3)	1021, §28
99F.16(2)	1021, §29
99F.17	1100, §7
99F.17(1)	1107, §37
99F.17(5)	1100, §6
99F.17A	1100, §8
100.13	1078, §1
100.14	1078, §2
100.15	1078, §9
100.16	1078, §3
100.17	1078, §9
100.18(2b)	1078, §4
100.19	1078, §9
100.23	1078, §9
100.26	1078, §5
100.27-100.29	1078, §9
100.31	1078, §6
103A.11(1)	1078, §7
123	1105, §3
123.3 **S**	1017, §1
123.36 **S**	1023, §85
123.37 **S**	1023, §9
123.39(1a) **S**	1017, §2
123.42	1017, §3
123.43	1017, §4
123.44	1017, §5
123.47	1105, §1; 1172, §2
123.47A	1172, §3
123.47A(1)	1105, §2
123.49(2h)	1172, §4
123.50(1) **S**	1172, §5
123.124	1017, §6
123.132	1017, §7
124	1172, §7,10
124.101(18)	1009, §1
124.204(1)	1009, §2
124.204(2)	1009, §4
124.204(2c)	1009, §3

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
124.204(4)	1009, §6
124.204(4y)	1009, §5
124.204(6)	1009, §7
124.204(9)	1009, §8
124.206(3)	1009, §9
124.206(7b)	1009, §10
124.208(1)	1009, §11
124.208(3k)	1009, §12
124.208(5d)	1009, §13
124.210(1)	1009, §14
124.210(3)	1009, §15
124.212(1)	1009, §16
124.212(4)	1009, §17
124.401(1d)	1107, §7
124.401A	1172, §6
124.406(1a,b)	1172, §8
124.406(2a,b)	1172, §9
124.415	1172, §11
125.13(2)	1068, §1
125.14A	1130, §11
125.59(1b)	1068, §2
135.1	1023, §10
135.11(11) **S**	1132, §9
135.11(13) **S**	1023, §11; 1132, §9
135.13	1168, §2
135.22	1068, §3
135.22A(1b)	1068, §4
135.22A(2e)	1109, §2
135C	1036, §1; 1130, §12
135C.1	1151, §1
135C.2	1151, §3
135C.2(3)	1151, §2
135C.2(5)	1170, §7
135C.2[5f(4)]	1170, §22
135C.23(2)	1170, §23
135C.25(1)	1170, §24
135H.1(6)	1120, §14
135H.1(9)	1120, §15
135H.7	1130, §13
137.19	1023, §86
137C	1032, §1-6
139.9(2)	1068, §5
141.6	1154, §2
141.23(1) **S**	1154, §3
141.23(1i) **S**	1023, §87
141.23A	1054, §1
144	1174, §2
144.13(1e) **S**	1171, §2
144.13(4) **S**	1171, §3
144.40 **S**	1171, §4
144.43(1)	1171, §5
144.44	1171, §6
144.46	1074, §1
145.1A **S**	1033, §11; 1068, §6
147	1098, §1,2
147.1	1132, §10
147.3	1132, §11
147.6	1132, §12
147.7	1132, §13
147.9	1132, §14
147.12	1132, §15
147.30	1132, §16
147.34	1132, §17
147.41(2)	1132, §18
147.44	1132, §19
147.46(1)	1132, §20
147.52	1132, §21
147.72	1132, §22
147.73(1)	1132, §23
147.83	1132, §24
147.86	1023, §12; 1132, §25
147.87	1132, §26
147.88	1132, §27
147.90	1132, §28
147.92	1132, §29; 1173, §8
147.93	1132, §30
147.107(9)	1134, §1
147.111 **S**	1132, §31
152.9	1123, §1
154.9	1098, §3
154D.2(1b)	1170, §25
154D.2(2b)	1170, §26
155A.13A(2)	1009, §18
159.1	1023, §13
159.5(11)	1023, §14
159.6(8)	1023, §15
159.20(10)	1119, §10
159.29(2)	1198, §32
159A	1119, §20,21
159A.1(2,3)	1119, §11
159A.2	1119, §12
159A.3	1119, §13
159A.4	1119, §17
159A.4(1)	1119, §14,15
159A.4(1j)	1119, §16
159A.5(1,2,4,5) **S**	1119, §18
159A.6	1119, §19
159A.7 **S**	1119, §22
159A.8	1119, §37
161A.5(3)	1180, §41
161A.42(11)	1107, §8
161A.43	1023, §16
161C	1198, §33,34
162.13	1103, §1
169	1198, §35
169B	1173, §42
169B.49	1103, §23
173.14B(2)	1198, §36
175.2(6)	1118, §1
175.2(12)	1118, §2
175.2(16)	1118, §3
175.12(3a)	1118, §4
175.12(3c)	1118, §5
175.12(3f)	1118, §6
175.12(3g)	1118, §7
176A.5	1169, §64
176A.8	1169, §64
179.1	1146, §1
179.5(3)	1146, §2
179.8	1146, §3
179.10	1146, §4
181	1146, §9
181.2(7)	1146, §5
181.6	1146, §6
181.13	1146, §7
181.16	1146, §8
183A	1146, §13
183A.1	1146, §10
183A.7	1146, §11
183A.11	1146, §12
184A.1	1146, §14
184A.4	1146, §15
184A.6	1146, §16
184A.7	1146, §46
184A.9	1146, §17
184A.17	1146, §18
185	1146, §26
185.1	1146, §20

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
185.1(6,11)	1146, §19
185.10	1146, §21
185.13	1146, §22
185.21	1146, §23
185.24	1146, §24
185.25	1146, §25
185.26	1146, §27
185.28	1146, §28
185.29	1146, §29
185.30	1146, §30
185.33	1146, §31
185C.1	1146, §32
185C.1(13)	1146, §33
185C.10	1146, §34
185C.21	1146, §35
185C.26	1146, §36
185C.28	1146, §37
185C.33	1146, §38
189.1	1023, §17
189.2	1023, §18
189.3	1023, §19
189.4	1023, §20
189.5	1023, §21
189.6	1023, §22
189.8	1023, §23
189.9	1023, §24
189.13	1023, §25
189.14(1)	1023, §26
189.15	1023, §27
189.16	1023, §28
189.19	1023, §29
189.20	1023, §30
189.21	1023, §31
189.22	1023, §32
189.23	1023, §33
189.24	1023, §34
189.25	1023, §35
189.27	1023, §36
189.28	1023, §37
189.29	1023, §38
189.30	1023, §39
189.31	1023, §40
190.1	1023, §41
190.14(1)	1198, §37
191.9(1)	1198, §38
192.102	1198, §39
192.110(2) **S**	1198, §40
192.111(3) **S**	1107, §38
192.133	1107, §39
192A.11	1019, §1
192A.30 **S**	1107, §40
194.14	1107, §41
194.19	1107, §42
194.20	1107, §43
195.9	1107, §44
196A.1	1146, §39
196A.17	1146, §40
196A.19	1146, §41
196A.20	1146, §46
196A.21	1146, §42
196A.25	1146, §43
198.9(3) **S**	1107, §45
200	1002, §1
200.8(3)	1107, §46
200.9 **S**	1107, §47
201.13	1107, §48
203.3(4b)	1086, §1
203.3(4c)	1086, §2
203.3(5b)	1086, §3
203.3(5c)	1086, §4
203C.16	1113, §1
206	1002, §2
206.12(3) **S**	1107, §49
214	1198, §43
214A.16	1119, §23
216.2(4b)	1023, §42
216B.3(16) **S**	1119, §24
216D.2(2)	1173, §9
217.6	1170, §27
217.10	1170, §28
217.11 **S**	1114, §3
217.11(6) **S**	1114, §2
217.12(3) **S**	1114, §4
217.12(3a) **S**	1114, §5
217.12(4) **S**	1114, §6
217.12(6) **S**	1114, §7
218.3(2)	1170, §29
218.4	1170, §30
218.9	1170, §31
218.30	1170, §32
218.86	1107, §9
218.92	1170, §33
221.2	1170, §34
222.2(1)	1170, §35
222.70	1170, §1
222.71	1170, §2
222.72	1170, §3
225C	1041, §2-4; 1170, §19
225C.1	1170, §10
225C.2	1170, §11
225C.3	1170, §12
225C.4	1170, §13
225C.5	1170, §14
225C.6	1170, §15
225C.7	1170, §16
225C.8-225C.11	1170, §54
225C.13	1170, §17
225C.14(1)	1170, §18
225C.21(3)	1170, §20
225C.23	1068, §7; 1109, §3
225C.45(1)	1170, §21
226.47	1170, §36
227.4	1170, §37
227.19	1170, §38
228	1159, §1
229	1024, §1; 1027, §1
229.12(2)	1027, §2
229.19 **S**	1173, §10
230.12	1170, §4
230.13	1170, §5
230.14	1170, §6
230.34	1170, §39
230A.1	1170, §40
230A.2	1170, §41
230A.16	1170, §42
230A.16(3)	1170, §43
230A.17	1170, §44
230A.18	1170, §45
231.44(2)	1170, §46
232	1172, §27,28; 1174, §4
232.2(4c) **S**	1046, §1
232.2(22) **S**	1172, §12
232.2(39) **S**	1046, §2
232.4	1171, §7
232.19(2)	1172, §13
232.29(2)	1172, §14
232.42	1172, §15
232.44(1)	1172, §16
232.44(7)	1172, §17
232.45A(2,3)	1172, §18

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
232.46(1)	1172, §19
232.47	1172, §20
232.52(2a)	1172, §21
232.52(2c)	1172, §22
232.68(2f) S	1130, §1
232.68(7b) S	1130, §2
232.69(1b)	1130, §3
232.71(1) S	1130, §4
232.71(2d) S	1130, §5
232.71(5) S	1082, §1
232.77(1) S	1130, §6
232.78(1)	1172, §23
232.79(1)	1172, §24
232.116[1d(3)] S	1174, §3
232.117(3)	1046, §3
232.148	1172, §25
232.149	1172, §26
234.39(1)	1171, §8
234.41	1046, §4
235.1	1023, §88
235A.15(2e) S	1156, §1
235A.15[2e(3)] S	1023, §43
235A.18(2) S	1130, §9,20
235A.19(1-3)	1130, §10
236.14(2) S	1093, §1
237.3(2h) S	1046, §5
237.8	1130, §14
237.15(1c)	1046, §6
237.22(4)	1046, §7
237.23 S	1186, §37
237A.1(4a) S	1175, §1
237A.1(8b) S	1129, §1
237A.3(1b) S	1129, §2
237A.3(1d) S	1129, §3
237A.5	1130, §15
237A.12	1129, §5; 1175, §2
237A.12(3)	1129, §4
238	1174, §5
238.1(2c)	1046, §8
239.1A S	1114, §8
239.18	1114, §9
239.21	1114, §10
249A	1171, §9
249A.3 S	1120, §1,9
249A.3(1g) S	1120, §16
249A.3(7) S	1120, §8
249A.4(8)	1150, §1,2
249A.5	1120, §10
249A.6(1,2,4) S	1023, §89
249A.12	1120, §2; 1163, §1
249A.25	1150, §4
249A.25(3)	1170, §47
249A.25(4d)	1170, §48
249A.25(4f)	1170, §49
249A.25(4h)	1170, §50
249A.26 S	1150, §3
249C.1	1114, §12
249C.1(3)	1114, §11
249C.1(4)	1114, §13
249C.3	1114, §14
249C.4	1114, §15
249C.6	1114, §16
249C.7	1114, §17
249C.8	1114, §18
249C.9	1114, §19
249C.14	1114, §20
249C.16	1114, §21
249C.17	1114, §22
252.16(6)	1186, §34
252A	1171, §14
252A.2 S	1171, §10,11
252A.3(9) S	1171, §12
252A.3A S	1171, §13
252B.5(2) S	1171, §15
252B.9[2b(2)] S	1171, §16
252B.18	1171, §17
252B.20(1b) S	1171, §18
252B.21(1) S	1171, §19
252C.2(2-4)	1171, §20
252C.4 S	1171, §22
252C.4(1,2,5) S	1171, §21
252C.5	1171, §23
252D.8(1) S	1171, §24
252D.23	1171, §25
252E.2 S	1171, §26
252E.5	1171, §27
252E.7	1171, §28
252E.8(1)	1171, §29
252E.13	1171, §30
252F.1(3c) S	1171, §31
252F.3 S	1171, §32
252F.4(1-4,6,7) S	1171, §33
252F.5(2,3,6,7) S	1171, §34
252F.8 S	1171, §35
252G.1 S	1171, §36
252G.3(1) S	1171, §37
252G.4 S	1171, §38
255.15	1023, §90
255.17	1023, §91
256	1131, §1
256.1(2-4) S	1023, §92
256.7 S	1043, §1; 1193, §17
256.7(7,8) S	1091, §3
256.7(12) S	1091, §1
256.7(15-17) S	1091, §3
256.7(21) S	1091, §2
256.9(27) S	1091, §4
256.9(33) S	1091, §5
256.9(36) S	1091, §6
256.9(39) S	1091, §12
256.9(41) S	1091, §7
256.9(42) S	1091, §8
256.9(43) S	1091, §9
256.9(44) S	1091, §10
256.9(46) S	1091, §11
256.11(5b) S	1152, §1
256.11(9,9A) S	1091, §13
256.11A S	1091, §14
256.12(2) S	1161, §1
256.52(3c) S	1193, §18
256.82(3) S	1184, §22
256B.5	1091, §15
256B.9(3,4)	1161, §2
256B.15(7)	1120, §12
257.2(12)	1023, §93
257.16	1023, §44; 1181, §12
257.31(14a) S	1175, §3
257.42	1088, §1
257.45	1088, §2
257.46	1088, §3
257B.11	1023, §45
257B.39	1173, §11
257B.42	1173, §12

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
257C.9(3,4)	1023, §46
258.14	1091, §25
258.15	1091, §25
259.1	1109, §4
259.2	1109, §5
259.3	1109, §6
259.4	1109, §7
259.5	1109, §8
259.6	1109, §9
259.7	1109, §10
260C.13(1)	1179, §14
260C.13(3,4)	1179, §15
260C.19A **S**	1119, §25
260C.23(9) **S**	1183, §60
260C.23(17) **S**	1183, §61
260C.28(2)	1175, §4
260C.57	1023, §94
260C.59	1023, §95
260C.65	1023, §96
260C.66	1023, §97
260C.67	1023, §98
260C.70	1023, §99
260D.12	1181, §13
260E.3	1182, §1
260E.3(4)	1182, §2
260F.3	1182, §3
260F.3(5,7)	1182, §4
261	1108, §2
261.19A	1108, §1
261.25(1) **S**	1193, §19
261.25(3) **S**	1193, §20
262.9 **S**	1193, §21
262.9(4a-c) **S**	1091, §16
262.9(5) **S**	1091, §17
262.9(24) **S**	1091, §18
262.9(25) **S**	1091, §19
262.9(26) **S**	1091, §20
262.14	1001, §4
262.21	1183, §62
262.25A **S**	1119, §26; 1199, §65
262.70	1170, §51
262A.6A(1)	1084, §1
266	1119, §27; 1193, §22; 1198, §44
269.1	1091, §21
270.2	1091, §25
270.4	1091, §22
272.7	1126, §1
272.34	1126, §2
272C.1(6)	1132, §32
272D	1193, §37
273.3	1089, §1; 1175, §5
273.3(14)	1183, §63
275.1 **S**	1169, §65
275.1(2) **S**	1023, §100
275.12(3) **S**	1179, §16
275.13	1169, §64
275.23A(1,2)	1179, §17
275.23A(3,4)	1179, §18
275.51 **S**	1175, §6
277	1180, §44
277.4 **S**	1180, §42
277.5	1180, §43
278.1	1029, §17,33
278.1(5)	1029, §16,33
279	1131, §3; 1175, §7
279.9	1131, §2
279.10(1)	1020, §1
279.41	1029, §18,33
279.42	1029, §19,33
279.49	1175, §8
279.51(1)	1199, §48
279.51(1c)	1199, §47
279.51(3)	1199, §49
280	1131, §6; 1172, §29; 1175, §9
280.9A(2)	1169, §57
280.15(1)	1083, §1
280.19A	1131, §4; 1172, §30
280.21	1131, §5
282.4	1131, §7; 1199, §66
282.5	1091, §23
282.18(2,4,5,7) **S**	1175, §10
282.18(14) **S**	1091, §24; 1175, §10
282.18(16) **S**	1131, §8
283A.1(3)	1169, §58
283A.1(4)	1193, §23
283A.2	1193, §24,36,38
283A.3	1193, §25
283A.4	1193, §26
283A.5	1193, §27
283A.7	1193, §28
283A.8	1193, §29
283A.9	1029, §20,33; 1193, §30
283A.10	1193, §31
285.1(1) **S**	1060, §1,2
285.2	1181, §14
285.10(7a) **S**	1029, §21,33
291.1	1175, §11
291.8	1175, §12
291.13	1029, §32,33
294	1183, §64
294.16	1183, §65
294A.14 **S**	1172, §31
294A.25(8) **S**	1023, §101; 1193, §32
297.22(1)	1029, §22,33; 1089, §2
297.23	1175, §13
297.36	1029, §23,33
298.3	1029, §24,25,33
298.3(1b)	1141, §1
298.3(3)	1141, §2
298.3(5,10)	1175, §14
298.4 **S**	1029, §26,27,33
298.18	1029, §28,33
299	1172, §32
299.5A	1172, §33
300.2 **S**	1029, §29,33
301.8	1175, §18
301.10(1) **S**	1175, §15
301.30	1175, §16
303.18 **S**	1181, §15
303.25	1169, §64
303.49	1169, §64
306.12	1013, §1
306.14	1013, §2
306.19	1030, §1
307.21 **S**	1119, §28
307.26(5)	1199, §50
309.82	1173, §13
312.2(13,15) **S**	1107, §50
312.2(19) **S**	1023, §102
312.3(1) **S**	1023, §103
317.3	1173, §14

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
321	1052, §1; 1139, §1; 1172, §34,35
321.1(75) S	1087, §1
321.12	1164, §1,2
321.24	1199, §77
321.34 S	1104, §1
321.52(4c) S	1107, §51
321.166	1028, §4
321.166(1)	1028, §1
321.166(3)	1028, §2
321.166(4)	1028, §3
321.178(1)	1102, §1
321.189(7) S	1102, §2
321.279	1069, §1
321.285(5) S	1173, §15
321.291 S	1023, §104
321.423(6)	1087, §2
321.453	1087, §3; 1198, §45
321.454(1)	1087, §4
321.454(2)	1087, §5
321.457 S	1199, §78
321.457(2h) S	1087, §6
321.457(3) S	1087, §7
321.463	1199, §79
321.465	1087, §8
321.491 S	1074, §2
321A.17(5) S	1172, §36
321E.1	1087, §9,10
321E.2	1087, §11
321E.9	1087, §12
321E.11	1087, §13
321I	1031, §5
321I.5(2m)	1031, §1
321I.8	1031, §2
321I.12	1031, §3
321I.14	1031, §4
321L.5(2)	1015, §1; 1107, §21
322.4(7)	1199, §80
322D.6	1121, §1
322F.4	1121, §2
324A.6(1,4) S	1107, §52
325.33	1095, §1
325.34	1095, §2
327	1095, §4
327.22	1095, §3
327A	1095, §7
327A.9	1095, §5
327A.18	1095, §6
327H.18 S	1107, §53
327H.20	1107, §54
327H.21	1107, §55
327H.24	1107, §98
327H.25	1107, §56
327I.4(11,15)	1107, §57
327I.7(14,20,21)	1107, §58
327I.9	1107, §59
327I.12	1107, §60
327I.23(1,2) S	1107, §61
327I.23(3) S	1107, §62
327I.25	1107, §63
327I.26	1107, §64
328.12(1)	1107, §65
328.24	1107, §66
328.36 S	1107, §67
331	1103, §2; 1163, §3,4; 1179, §23
331.201	1169, §64
331.203(2b)	1179, §19
331.204(3)	1179, §20
331.209(1)	1179, §21
331.209(3)	1179, §22
331.209(5)	1179, §21
331.237(1)	1180, §45
331.237(2a)	1180, §46
331.254(7)	1180, §47
331.306	1180, §48
331.321(1v) S	1173, §16
331.324(1b)	1173, §17
331.341(1)	1173, §18
331.361(4)	1173, §19
331.381(14) S	1173, §20
331.424(1g)	1170, §52
331.424(1i)	1169, §59
331.427(1)	1074, §3
331.438	1163, §2
331.441(2b) S	1182, §5
331.441[2b(12)] S	1014, §1
331.502(3) S	1173, §21
331.502(14) S	1173, §22
331.505(4)	1169, §60
331.507(3b,c)	1173, §23
331.507(4)	1025, §2
331.508(7)	1173, §24
331.512(1d)	1078, §8
331.512(5)	1173, §25
331.552	1173, §26
331.558(3)	1025, §3
331.602(26,28)	1055, §1
331.602(29)	1023, §105; 1055, §1
331.602(33)	1055, §1
331.602(43)	1025, §4
331.605A S	1138, §1
331.607(6)	1055, §2
331.651(1)	1010, §1
331.653(21)	1103, §3; 1173, §27
331.751	1169, §64
331.752	1173, §28
331.756(5) S	1173, §29
331.756(13) S	1173, §30
331.756(15) S	1023, §106
331.756(23,30) S	1173, §30
331.756(45) S	1170, §53
331.756(64B) S	1023, §106
331.756(75,76) S	1173, §30
331.902(3)	1025, §1
331.903(4)	1173, §31
331.904(2)	1004, §1
335.25 S	1170, §8
335.25(3) S	1023, §107
335.30 S	1110, §1
335.32 S	1023, §108
347	1135, §2
347.10	1180, §49
347.15	1135, §1
351.1-351.14	1173, §42
351.17	1173, §42
351.20	1173, §42
351.22-351.24	1173, §42
351.25	1173, §32
351.26	1173, §33
351.27	1173, §34

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
351.34	1173, §42
357.12	1169, §64
357A	1137, §1
357A.14(1) S	1023, §109
357C.7	1169, §64
357D.8	1169, §64
357E.8	1169, §64
357F.4	1023, §47
357F.8	1169, §64
358.7	1169, §64
358.9 S	1045, §1
359A.18	1061, §1
361	1173, §42
362.2 S	1169, §65
362.3(2) S	1180, §50
362.4	1180, §51
364	1103, §4
364.3(2)	1074, §4
368.1(12) S	1169, §61
368.14	1169, §64
372.2(1)	1180, §52
372.2(5a)	1180, §53
372.13[2a(4)] S	1180, §54
372.13(7) S	1179, §24
376.4	1180, §55
384.12	1075, §15
384.12(19c)	1180, §56
384.38	1073, §1
384.80	1056, §1
384.84 S	1056, §2
392.6	1034, §1
400.8(3) S	1071, §1
400.11 S	1071, §2
403	1182, §13
403.5(2-5,7)	1182, §6
403.12(5)	1182, §7
403.17	1182, §9
403.17(2,3,8,12,20,22)	1182, §8
403.19	1182, §10
403.19(5)	1182, §11
403.19(7)	1182, §12
411	1183, §73
411.3	1183, §66
411.5 S	1183, §68
411.5(8) S	1183, §67
411.6(1)	1183, §69
411.6(2d)	1183, §71
411.6[2d(2)]	1183, §70
411.6(10)	1183, §72
411.8(1)	1183, §76
411.8[1f(6-8)]	1183, §74
411.8(1h)	1183, §75
414.22 S	1170, §9
414.22(3) S	1023, §110
414.28 S	1110, §2
414.30 S	1023, §111
419.1(12a)	1162, §1
419.2	1162, §2
421	1133, §1; 1165, §10
421.4	1165, §1
421.5	1165, §2
421.7(1)	1023, §48
421.9	1165, §3
421.17(1) S	1107, §22
421.17(2) S	1107, §23
421.17(5) S	1165, §4
421.17(10) S	1165, §5
421.17(15,17) S	1107, §24
421.17[21A(c,d)] S	1171, §39
421.17(22) S	1165, §6
421.17(25) S	1142, §1
421.20	1107, §25
421.23	1165, §7
421.26	1165, §8
421.27(1)	1165, §9
421.31	1146, §45
421.31(2)	1146, §44
421.31(5)	1181, §16
421.31(9)	1107, §10
421.45	1165, §11
422.3(4) S	1166, §1
422.4	1133, §2
422.4(1d)	1107, §11
422.7 S	1183, §77-79
422.7(13) S	1166, §2
422.7(21) S	1165, §12
422.7(25) S	1166, §3
422.8(2)	1149, §1
422.9(2)	1166, §4
422.9(2c)	1046, §9
422.9(2g)	1166, §5
422.9(3c)	1166, §6
422.10 S	1166, §7
422.12A S	1199, §2
422.16(1)	1165, §13,14
422.16(4)	1165, §15
422.21	1165, §16
422.25(1)	1133, §3
422.25(4)	1133, §4
422.28	1133, §5
422.29(2)	1133, §6
422.30	1165, §17
422.32(4)	1165, §18
422.33(1A) S	1165, §19
422.33(5) S	1166, §8
422.34(2-6)	1165, §20
422.35(9)	1107, §26
422.35(11c,e)	1166, §9
422.35(14)	1166, §10
422.42(12)	1107, §27
422.42(15)	1165, §21
422.43(13) S	1165, §22
422.45(13a) S	1016, §1
422.45(28) S	1023, §49
422.45(33b) S	1023, §50
422.50	1165, §23
422.53(3)	1165, §24
422.54(1,2)	1133, §7
422.73(3-7)	1023, §51
422A.2(1,2)	1107, §12
423.1(8) S	1107, §28
423.4(1)	1165, §25
423.22 S	1107, §29
423.24(1b) S	1119, §29,36
423.25	1023, §52
424.10(2)	1133, §8
425.2	1143, §1
425.3	1144, §1
425.17(2b) S	1125, §1
425.17(3) S	1125, §2
425.17(6) S	1165, §26
425.17(9) S	1125, §2
425.20	1125, §3; 1165, §27
425.26(2)	1125, §4
425.26(8)	1165, §28
425.28	1165, §29
427.3(1,2)	1173, §35

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION – Continued

Code Chapter or Section	Acts Chapter
427.6	1144, §2
427A.2-427A.6	1173, §42
427A.9-427A.11	1173, §42
428.10	1173, §42
428.20	1023, §53
428A.8	1201, §28
429.2	1133, §9
429.3	1133, §10
435	1110, §16,19
435.1	1110, §4
435.1(1)	1110, §3
435.1(2)	1110, §5
435.1(3)	1110, §6
435.22	1110, §7
435.22(1)	1110, §8
435.22(2)	1110, §8; 1165, §30
435.22(3)	1110, §8
435.22(5)	1110, §9
435.23	1110, §10
435.24(1-6)	1110, §11
435.24(7a)	1110, §12
435.25	1110, §13
435.26	1110, §14
435.27	1110, §15
435.29	1110, §17
435.33	1110, §18
435.34	1110, §25
441.17(10)	1110, §20
443.19	1023, §54
444	1163, §5
444.26	1163, §6
444.27	1163, §7
450.4(2) **S**	1165, §31
450.9(2)	1046, §10
450.10(1)	1046, §11
450.12(1a)	1165, §32
450.53	1165, §33
450.94(3)	1133, §11
451.12	1165, §34
452A.4	1165, §35
452A.8(7)	1165, §36
452A.16	1165, §37
452A.64	1133, §12
452A.79 **S**	1107, §68,69
452A.82	1107, §70
452A.84	1107, §71
453A.2	1172, §37
453A.3	1172, §38
453A.13(10)	1165, §38
453A.29	1133, §13
453A.44(9)	1165, §39
453A.46(4)	1133, §14
453A.48(5)	1133, §15
453B.9	1165, §40
455A.18 **S**	1198, §46
455B	1198, §48-50
455B.104 **S**	1119, §30
455B.105(11b)	1198, §47
455B.133 **S**	1040, §1
455B.221	1059, §1
455B.301A(1)	1177, §1
455B.302	1044, §1
455B.304	1177, §2
455B.305(6)	1177, §3
455B.305A(5,7,8) **S**	1023, §55
455B.392(1a) **S**	1157, §1
455B.392(5) **S**	1157, §2
455B.471(6b) **S**	1067, §1
455D.3	1177, §4
455D.10B(1b)	1037, §1
455D.10B(2)	1037, §2
455D.11A(4)	1023, §56
455D.19(2)	1085, §1
455E.11[2a(9)] **S**	1177, §5
455E.11[2a(15)] **S**	1173, §36
455E.11(2e) **S**	1023, §112
456A.17	1107, §72
456A.19	1107, §73
461A.79 **S**	1107, §74
461A.80(1,2)	1107, §75
468.10(4,5)	1051, §1
468.34	1051, §2
468.35(2)	1051, §3
468.50	1035, §1; 1051, §4
468.52	1051, §5
468.57(1,2)	1035, §2
468.66	1051, §6
468.70	1035, §3
468.72	1035, §4
468.76	1035, §5
468.126(2)	1051, §7
468.126(4a)	1051, §8
468.127	1051, §9
468.136	1051, §10
468.137	1051, §11
468.212	1035, §6
468.291	1051, §12
473.11(1f) **S**	1107, §76
473.11(5f) **S**	1107, §77
473.16	1107, §78
473.20(2)	1029, §30,33
475A.3(3)	1107, §79
476.10 **S**	1107, §80
476.51	1107, §81
477C.5	1023, §57
478.1	1136, §1
478.2	1136, §2
478.3(2)	1136, §3
478.4	1107, §82
478.13	1136, §4
478.21	1136, §5
479.16	1107, §83
479A.9	1107, §84
481A.12	1148, §1
481A.24 **S**	1147, §1
481A.87	1148, §2
483A.7(3)	1111, §1
483A.8(3)	1111, §2
483A.24(1)	1023, §58
483A.24(7)	1018, §1
483A.24(13)	1023, §58
483A.30	1111, §3
486	1049, §9-11
486.2	1049, §1
486.6(1)	1049, §2

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
486.15	1049, §3
486.18(1)	1049, §4
486.34	1049, §5
486.36(4)	1049, §6
486.40(1b)	1049, §7
486.40(4)	1049, §8
487.206(3)	1055, §3
490.1422 **S**	1053, §1
490A.1404(1)	1023, §59
490A.1406(1e) **S**	1023, §60
490A.1407(2d) **S**	1023, §61
491.4	1055, §16
491.5	1055, §4
491.23	1055, §5
491.27	1055, §6
491.33	1055, §7
491.107	1055, §8
497.3	1055, §9
497.4	1055, §10
497.9	1055, §11
497.29	1055, §12
497.34	1023, §62
498.36	1023, §63
499.5A	1137, §2
499.30	1058, §1
499.36(6)	1023, §64
499.43A(2)	1055, §13
499.45 **S**	1107, §30
499.59A	1023, §65
499.67	1055, §14
502.102(11)	1031, §6
502.208(2)	1031, §7
502.208(9a)	1031, §8
502.208(11)	1031, §9
502.208(13)	1031, §10
502.209(1)	1031, §12
502.209(1i,j)	1031, §11
502.209(3)	1031, §13
502.302(5)	1031, §14
502.304(1)	1031, §15
502.603(1c)	1031, §16
502.604A	1031, §17
504A.28	1023, §66
504A.32(2) **S**	1055, §15
505	1176, §4-6
505.1 **S**	1023, §113
505.7 **S**	1176, §2
505.7(1) **S**	1176, §1
505.8	1176, §3
507A.4	1038, §1,3
507C.42(3) **S**	1023, §114
508.36(1)	1176, §7
508.36(2)	1176, §8
509A	1183, §81
509A.12	1183, §80
513A	1038, §2,3
513B.2(16) **S**	1176, §9
513B.4 **S**	1176, §10,12
513B.4(2) **S**	1176, §11
515A.13	1176, §13
521A.5(3b) **S**	1006, §1
521C.2(8c)	1176, §14
521C.11	1176, §15
523C	1031, §19,20
523C.12	1031, §18
524.207 **S**	1107, §85
524.901(3)	1140, §2
524.901(3j)	1140, §1
524.1213(2)	1023, §67
533.43(3)	1167, §2,122
533.67 **S**	1107, §86
534.102(28)	1187, §20
534.401(1)	1187, §21
536A.2(5)	1023, §68
537.3211	1167, §3,122
539.1	1167, §4,122
539.2	1167, §5,122
541A	1114, §25
541A.1(2) **S**	1114, §23
541A.4(1) **S**	1114, §24
542B.2	1107, §13
542B.12	1107, §87
542B.14(1b)	1107, §14
542C.3(3) **S**	1107, §88
543B.14	1107, §89
543D.6(2)	1107, §90
544A.11	1107, §91
544B.14	1107, §92
546.8 **S**	1023, §115
546.9	1107, §93
546.10 **S**	1187, §22
546.10(5) **S**	1107, §94
546.10(6) **S**	1107, §95
546.11 **S**	1107, §99
548	1090, §4,8,13,15-17
548.1	1090, §1
548.2	1090, §2
548.3	1090, §3
548.4	1090, §5
548.5	1090, §6
548.6	1090, §7
548.7	1090, §9
548.8	1090, §10
548.9	1090, §11
548.10	1090, §12
548.11	1090, §14
548.12	1090, §19
548.13	1090, §19
554	1052, §5-84; 1167, §10-77,86,87,102, 103,122
554.1105(2)	1052, §2; 1121, §3
554.1201(20,24)	1167, §6,122
554.1201(37)	1052, §3
554.1201(43)	1167, §6,122
554.1207	1167, §7,122
554.2103(3)	1167, §8,122
554.2403(4)	1121, §4
554.2511(3)	1167, §9,122
554.3101-554.3122	1167, §121,122
554.3201-554.3208	1167, §121,122
554.3301-554.3307	1167, §121,122
554.3401-554.3419	1167, §121,122
554.3501-554.3511	1167, §121,122
554.3601-554.3606	1167, §121,122
554.3701	1167, §121,122
554.3801-554.3806	1167, §121,122
554.4101	1167, §78,122
554.4102	1167, §79,122

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION – Continued

Code Chapter or Section	Acts Chapter
554.4103	1167, §80,122
554.4104	1167, §81,122
554.4105	1167, §82,122
554.4106	1167, §83,122
554.4107	1167, §84,122
554.4108	1167, §85,122
554.4109	1167, §121,122
554.4201	1167, §88,122
554.4202	1167, §89,122
554.4203	1167, §90,122
554.4204	1167, §91,122
554.4205	1167, §92,122
554.4206	1167, §93,122
554.4207	1167, §94,122
554.4208	1167, §95,122
554.4209	1167, §96,122
554.4210	1167, §97,122
554.4211	1167, §98,122
554.4212	1167, §99,122
554.4213	1167, §100,122
554.4214	1167, §101,122
554.4301	1167, §104,122
554.4302	1167, §105,122
554.4303	1167, §106,122
554.4401	1167, §107,122
554.4402	1167, §108,122
554.4403	1167, §109,122
554.4405	1167, §110,122
554.4406	1167, §111,122
554.4407	1167, §112,122
554.4501	1167, §113,122
554.4502	1167, §114,122
554.4503	1167, §115,122
554.4504(1)	1167, §116,122
554.5103(3)	1167, §117,122
554.6101-554.6111	1121, §17
554.9111	1121, §17
554.9113	1052, §4
554.9206(1)	1167, §118,122
554.9403(5) **S**	1107, §31
555B.1 **S**	1110, §21
555B.2(2a) **S**	1110, §22
556.5(2) **S**	1023, §116
556.17(1,2)	1188, §37
556.18 **S**	1107, §97
556.18(1) **S**	1107, §96; 1188, §38
562B.7(5)	1110, §23
568.2	1173, §42
568.3	1173, §37
568.4	1173, §38
595.18	1046, §30
595.19	1023, §117
598.21 **S**	1171, §40,42
598.21(8k) **S**	1171, §41
598.23A(2) **S**	1101, §9,10
600.1	1174, §6
600.2(1)	1046, §12
600.8(1c)	1046, §13
600.9	1174, §7
600.9(1c,d)	1046, §14
600.9(2)	1046, §15
600.11(2)	1174, §8
600.14	1174, §9
600.16	1174, §10
600.16(2)	1046, §16
600.16(3)	1174, §11
600.16A(2,3)	1046, §17
600.24(1)	1046, §18
600A	1174, §21
600A.1	1174, §12
600A.2	1174, §13
600A.2(12)	1046, §19
600A.4(2)	1174, §14
600A.4(2d)	1174, §15
600A.5(2)	1046, §20
600A.6(1)	1046, §21; 1174, §16
600A.6(2)	1174, §17
600A.6(5,6)	1174, §18
600A.7	1174, §19
600A.9(2)	1174, §20
600B	1171, §48
600B.5	1046, §22
600B.9	1171, §43
600B.24	1171, §44
600B.35	1046, §23
600B.36	1046, §24
600B.41(3,5,6) **S**	1171, §45
600B.41(7) **S**	1171, §46
600B.41(8) **S**	1171, §47
602	1183, §83,84; 1196, §21
602.5205(2)	1127, §1
602.6111 **S**	1171, §49
602.6301	1127, §2
602.6306(2)	1122, §1
602.6405(1)	1103, §5
602.7103(3)	1172, §39
602.8102 **S**	1124, §1
602.8102(15) **S**	1169, §62
602.8102(34) **S**	1173, §39
602.8102(119) **S**	1046, §25
602.8103(5)	1070, §1
602.8105	1074, §5
602.8106 **S**	1074, §6
602.8107(1,2) **S**	1142, §2
602.8107(5) **S**	1023, §118; 1142, §3
602.8108	1074, §7
602.9104(4)	1183, §82
602.9116	1183, §85
602.9204	1183, §86
607A.5	1196, §22
613.16(2)	1172, §40
615.1	1115, §1
615.3	1115, §2; 1199, §67
625.8(3)	1074, §8

CHAPTERS AND SECTIONS AMENDED OR REPEALED
CODE AND SUPPLEMENT 1993
1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
626.29 **S**	1165, §41
626A.5	1074, §9
627.13	1171, §50
631.1 **S**	1117, §1
631.6	1074, §10
633	1120, §3-7; 1153, §7,11-13
633.3(5,23)	1046, §26
633.13	1122, §2
633.20(2) **S**	1074, §11
633.22	1050, §1
633.31(2)	1074, §12
633.31(2i)	1074, §13
633.197	1153, §8
633.221	1046, §27
633.222	1046, §28
633.223	1046, §29
633.272	1165, §42
633.425	1120, §11
633.559	1153, §9
633.571	1153, §10
633.641	1112, §2
641.1	1173, §40
641.2	1173, §41
654A.17 **S**	1106, §1
654B.12 **S**	1106, §1
668	1167, §119,122
669.2(4) **S**	1171, §51
670.4	1103, §6
670.7	1175, §17
674.10	1074, §14
692.2(1) **S**	1130, §17
692.2(1c) **S**	1130, §16
692.3(2)	1130, §18
692.8	1096, §1
702.11	1023, §69
702.18	1172, §41
707.2	1172, §42
707.6A(1-3)	1069, §2
708.2A **S**	1093, §2
708.7(1)	1093, §3
708.11	1093, §4
709.4[2c(4)]	1128, §1
709B.1(2) **S**	1154, §4
709B.2(1) **S**	1154, §5
709B.2(1a) **S**	1154, §6
709B.2(4a) **S**	1154, §7
709B.2(5) **S**	1154, §8
709B.3(14) **S**	1154, §9
713.3	1107, §15
713.4	1107, §16
713.5	1107, §17
713.6	1107, §18
714.7A	1142, §4
714.8	1185, §1
714.8(12)	1023, §70
714.16(7)	1142, §5
714.16A(1)	1142, §6
717	1103, §8,10
717.1	1103, §7
717.2	1103, §9
717.3	1103, §23
717.4	1103, §23
717.5	1103, §11
717.6	1103, §23
724	1172, §53,55,58
724.6(2) **S**	1183, §87
724.16(1)	1172, §54
724.22(1,2)	1172, §56
724.22(7)	1023, §119
724.27	1172, §57
726	1172, §59
728.14(1)	1128, §2
730.5(2)	1023, §120
802.2	1128, §3
804.19	1047, §1
805.1(1)	1093, §5
805.6(1a)	1074, §15,16
805.8[2g(3)] **S**	1023, §121
805.8(5c,d) **S**	1147, §2
805.8(10) **S**	1172, §60
805.8(11) **S**	1172, §61
808A.2	1172, §62
808B.9	1172, §63
811.1(3)	1093, §6
812.4	1079, §1
812.5	1079, §2
815.7	1187, §23
815.9A(1) **S**	1023, §122
815.10	1187, §24
815.11	1187, §25
901.1	1023, §71
901.2	1099, §1
904	1119, §31
904.311	1142, §7
904.401	1142, §8
904.602(1)	1142, §9
904.602(2)	1142, §10
904.603	1142, §11
904.802(2)	1023, §72
904.808(3)	1023, §73
904.905(1-4)	1142, §12
905.12(2,3)	1142, §13
906.16	1048, §1
908	1048, §2
909.6 **S**	1142, §14
910.1(3)	1142, §15
910.2	1142, §16
910.3	1142, §17
910.9	1142, §18
910A.16(4) **S**	1023, §123
911.1	1074, §17
911.3	1074, §18
912.6(4) **S**	1142, §19
914.6(1,3)	1169, §63
914.7	1172, §64

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION

New chapter and section numbers are subject to change when codified

Code Chapter or Section	Acts Chapter
8.8	1199, §1
8.62	1181, §2
10A.108	1112, §1
15.325-15.327	1008, §3-5
15.329-15.331	1008, §6-8
15.332	1008, §9; 1165, §43
15.333	1008, §10
15.334	1008, §11
15.335	1008, §12; 1165, §44
15.336	1008, §13
15A.9	1008, §17
16.177	1196, §20
16.181	1155, §1,7
16.182	1155, §2,7
16.183	1155, §3,7
16.184	1155, §4,7
16.185	1155, §5,7
16.186	1155, §6,7
18.23	1195, §1
18.133A	1184, §5
18.133B	1184, §6
18.133C	1184, §7
18.133D	1184, §8
18.133E	1184, §9
18.133F	1184, §10
18.133G	1184, §11
18.133H	1184, §12
18.134A	1184, §14
48A.1-48A.5	1169, §1-5
48A.5A	1169, §6
48A.6-48A.41	1169, §7-42
70A.17A	1188, §36
80.26	1080, §1
86.44	1064, §2
87.14A	1066, §3
97A.6B	1183, §9
97B.11A	1183, §13
97B.42A	1183, §25
97B.42B	1183, §26
97B.53B	1183, §48
99B.7A	1062, §6
99F.4A	1021, §13
99F.4B	1199, §46
123.47C	1105, §3
124.401B	1172, §7
124.406A	1172, §10
135C.33	1036, §1; 1130, §12
137C.25	1032, §1
137C.25A-137C.25E	1032, §2-6
144.12A	1174, §2
144C.1	1033, §1
144C.2-144C.8	1033, §3-9
147.108	1098, §1
147.109	1098, §2
152D.1-152D.8	1132, §1-8
159A.6A	1119, §20
159A.6B	1119, §21
161C.5	1198, §33
161C.6	1198, §34
169.4A	1198, §35
181.18B	1146, §9
183A.12A	1146, §13
185.25A	1146, §26
200.22	1002, §1; 1198, §41
206.34	1002, §2; 1198, §42
214.4	1198, §43
225C.18	1170, §19
225C.46	1041, §2
225C.47	1041, §3
225C.48	1041, §4
228.9	1159, §1
229.9A	1027, §1
229.45	1024, §1
232.168	1174, §4
232.190	1172, §27
232.191	1172, §28
238.43A	1174, §5
249A.4A	1171, §9
252A.6A	1171, §14
252I.1-252I.8	1101, §1-8
256.11C	1131, §1
261.19B	1108, §2
266.19	1119, §27
266.39D	1193, §22; 1198, §44
277.7	1180, §44
279.9A	1131, §3
279.48	1175, §7
280.3A	1175, §9
280.9B	1172, §29
280.21A	1131, §6
294.10A	1183, §64
298A.1-298A.14	1029, §1-14,33
299.1B	1172, §32
321.51	1052, §1
321.213A	1172, §34
321.213B	1172, §35
321.324A	1139, §1
321I.16	1031, §5
327.24	1095, §4
327A.22	1095, §7
331.210A	1179, §23
331.308	1103, §2
331.439	1163, §3
331.440	1163, §4
347.23A	1135, §2
357A.23	1137, §1
357G.1-357G.14	1075, §1-14
364.22A	1103, §4
403.21	1182, §13
411.6B	1183, §73
421.29	1165, §10
421.60	1133, §1
435.28	1110, §16
435.35	1110, §19
444.25A	1163, §5
455B.183A-455B.183C	1198, §48-50
486.44-486.46	1049, §9-11

NEW CODE CHAPTERS AND SECTIONS ASSIGNED BY THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION — Continued

Code Chapter or Section	Acts Chapter
505.17	1176, §4
505.20	1176, §5
505.21	1176, §6
507E.1-507E.8	1072, §1-8
508D.1-508D.9	1011, §1-9
509A.13A	1183, §81
513A.8	1038, §2,3
521D.1-521D.4	1176, §16-19
523C.20	1031, §19
523C.21	1031, §20
541A.5	1114, §25
548.3A	1090, §4
548.6A	1090, §8
548.10A	1090, §13
548.11A-548.11C	1090, §15-17
554.3101-554.3119	1167, §10-28,122
554.3201-554.3207	1167, §29-35,122
554.3301-554.3312	1167, §36-47,122
554.3401-554.3420	1167, §48-67,122
554.3501-554.3505	1167, §68-72,122
554.3601-554.3605	1167, §73-77,122
554.4110	1167, §86,122
554.4111	1167, §87,122
554.4215	1167, §102,122
554.4216	1167, §103,122
554.13101-554.13109	1052, §5-13
554.13201-554.13221	1052, §14-34
554.13301-554.13311	1052, §35-45
554.13401-554.13407	1052, §46-52
554.13501-554.13532	1052, §53-84
556F.1	1094, §1
600A.9A	1174, §21
600B.41A	1171, §48
602.8108A	1196, §21
602.9104A	1183, §83
602.9105	1183, §84
633.5	1153, §7
633.591A	1153, §11
633.703A	1153, §12
633.703B	1153, §13
633.707	1120, §3
633.708	1120, §4
633.709	1120, §5
633.710	1120, §6
633.711	1120, §7
634A.1	1158, §1
634A.2	1158, §2
668.16	1167, §119,122
684.1-684.12	1121, §5-16
709C.1-709C.10	1172, §43-52,74
714B.1-714B.10	1185, §2-11
717.1A	1103, §8
717.2A	1103, §10
717B.1-717B.5	1103, §12-16
717B.5A	1103, §17
717B.6-717B.8	1103, §18-20
724.4A	1172, §53
724.16A	1172, §55
724.30	1172, §58
726.6B	1172, §59
904.312A	1119, §31
908.10A	1048, §2

SESSION LAWS AMENDED OR REPEALED IN ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION

ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION

File	Acts Chapter
Senate File 94, §1(ch 1002)	1198, §41
Senate File 94, §2(ch 1002)	1198, §42
Senate File 2080, §3(ch 1087)	1198, §45
Senate File 2080, §6(ch 1087)	1199, §78
Senate File 2080, §7(ch 1087)	1199, §78
Senate File 2086, §32(ch 1107)	1199, §64
Senate File 2086, §34(ch 1107)	1199, §73
Senate File 2086, §36(ch 1107)	1199, §73
Senate File 2217, §3(2)(ch 1189)	1199, §91
Senate File 2218, §6(2)(ch 1187)	1199, §43
Senate File 2229, §24(ch 1188)	1199, §4
Senate File 2313, §5(ch 1186)	1199, §40
Senate File 2313, §11(ch 1186)	1199, §41
Senate File 2313, §19(1)(ch 1186)	1199, §69
Senate File 2313, §19(6a)(ch 1186)	1199, §70
Senate File 2318, §6(ch 1181)	1199, §44
House File 181, §4(ch 1102)	1199, §52
House File 307, §2(ch 1115)	1199, §67
House File 582, §1(2)(ch 1077)	1199, §71
House File 2179, §26(ch 1021)	1199, §75
House File 2180, §9(2)(ch 1008)	1165, §43
House File 2180, §12(ch 1008)	1165, §44
House File 2230, §3(ch 1097)	1199, §68
House File 2337, §26(ch 1119)	1199, §65
House File 2383, §7(ch 1131)	1199, §66
House File 2403, §6(ch 1076)	1199, §74
House File 2411, §7(4)(ch 1193)	1199, §72

ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1993 REGULAR SESSION

Chapter	Acts Chapter	Chapter	Acts Chapter	Chapter	Acts Chapter
28, §2	1026, §1	171, §11(4)	1196, §23	173, §2	1192, §3
29, §4	1106, §2	171, §23	1106, §2	175, §26	1023, §125
55, §1(2)	1068, §8	172, §3(unb. par. 2)	1199, §23	176, §25(2)	1198, §31
131, §29	1023, §124	172, §32	1130, §7	179, §1(5, unb. par. 2)	1193, §5
144, §6	1199, §3	172, §33	1130, §7	179, §8(1b)	1199, §24
167, §3(3)	1201, §10	172, §38	1130, §7	180, §19	1199, §25
169, §8(1a)	1199, §21	172, §39	1130, §7	180, §46	1201, §29
170, §6(3, unb. par. 1)	1199, §22	173, §1	1192, §2	180, §62	1193, §6

ACTS OF THE SEVENTY-FOURTH GENERAL ASSEMBLY, 1992 REGULAR SESSION

Chapter	Acts Chapter
1056, §3	1066, §9
1099, §11	1119, §37
1117, §40	1023, §125
1117, §43	1023, §125
1161, §7	1026, §1
1233, §4	1192, §3
1234, §6	1194, §56
1238, §10	1023, §124
1244, §1(2e), as amended by 1993 Acts, ch 180, §46	1201, §29

ACTS OF THE SEVENTY-FOURTH GENERAL ASSEMBLY, 1991 REGULAR SESSION

Chapter	Acts Chapter
127, §2	1087, §14
220, §7	1026, §1
268, §508[3, unb. par. 2, (a-d)]	1023, §124
270, §3	1192, §3

ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1990 REGULAR SESSION

Chapter	Acts Chapter
1143, §28	1106, §2
1143, §29	1106, §2
1143, §32(2)	1106, §3
1260, §20	1198, §30
1265, §3	1192, §3
1274, unb. par. 1 after the enacting clause, as amended by 1991 Acts, ch 220, §7; 1992 Acts, ch 1161, §7; and 1993 Acts, ch 28, §2	1026, §1

ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 REGULAR SESSION

Chapter	Acts Chapter
311, §21	1198, §30
312, §6	1192, §3

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1988 REGULAR SESSION

Chapter	Acts Chapter
1281, §6	1192, §3

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1987 SESSION

Chapter	Acts Chapter
230, §8	1192, §3
233, §204(5), as amended by 1989 Acts, ch 311, §21, as amended by 1990 Acts, ch 1260, §20	1198, §30

ACTS OF THE SEVENTY-FIRST GENERAL ASSEMBLY, 1986 REGULAR SESSION

Chapter	Acts Chapter
1249, §4, unb. par. 1, as amended by 1987 Acts, ch 230, §8; 1988 Acts, ch 1281, §6; 1989 Acts, ch 312, §6; 1990 Acts, ch 1265, §3; 1991 Acts, ch 270, §3; and 1992 Acts, ch 1233, §4	1192, §3

SESSION LAWS REFERRED TO IN ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION

ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION

Chapter	Acts Chapter
Senate File 413(ch 1074)	1196, §9,10
Senate File 2144*	1200, §6
Senate File 2217(ch 1189)	1199, §89
Senate File 2218, §7(1)(ch 1187)	1199, §90
Senate File 2251*	1196, §9
Senate File 2313, §3(6)(ch 1186)	1199, §39
Senate File 2313(ch 1186)	1199, §86
Senate File 2314(ch 1198)	1199, §8,32,38
Senate File 2318, §17(ch 1181)	1181, §10
House File 2177*	1189, §3
House File 2179(ch 1021)	1189, §5
House File 2261(ch 1130)	1199, §8
House File 2376, §3(2)(ch 1200)	1199, §36
House File 2415, §1(2b)(ch 1201)	1076, §6
House File 2418(ch 1183)	1196, §9
House File 2430(ch 1163)	1199, §85

*Not enacted

SESSION LAWS REFERRED TO IN ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 SESSION – Continued

ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1993 REGULAR SESSION

Chapter	Acts Chapter
97	1114, §8
97, §3	1186, §1,7
97, §3(1b)	1005, §1
167, §1	1199, §28
169, §14	1189, §9,11
171	1199, §30
171, §4-6	1196, §15
171, §6[1f(3)]	1196, §6
171, §12	1196, §13
172	1199, §29
172, §15(1b)	1199, §29
172, §16(2)	1186, §19
172, §20(5)	1170, §19
172, §28	1186, §29
176, §14	1198, §14
179, §6(2)	1193, §14
180, §17	1199, §8
180, §60	1186, §30
180, §66	1199, §8; 1201, §8

ACTS OF THE SEVENTY-FOURTH GENERAL ASSEMBLY, 1992 REGULAR SESSION

Chapter	Acts Chapter
1056, §2	1188, §23
1201, §76, as amended by 1992 Acts, Second Extraordinary Session, ch 1001, §116	1183, §90
1240, §1(2b)	1196, §1
1241, §11	1186, §31
1241, §25(4)	1186, §19

ACTS OF THE SEVENTY-FOURTH GENERAL ASSEMBLY, 1992 SECOND EXTRAORDINARY SESSION

Chapter	Acts Chapter
1001, §409(6)	1186, §3
1001, §415	1200, §4

ACTS OF THE SEVENTY-FOURTH GENERAL ASSEMBLY, 1991 REGULAR SESSION

Chapter	Acts Chapter
267, §119	1186, §12
268, §507	1189, §10

SESSION LAWS REFERRED TO IN ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 SESSION — Continued

ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1990 REGULAR SESSION

Chapter	Acts Chapter
1239, §21	1186, §9
1257, §24	1196, §5
1268, §6(3d,7e)	1196, §6
1273	1084, §1

ACTS OF THE SEVENTY-THIRD GENERAL ASSEMBLY, 1989 REGULAR SESSION

Chapter	Acts Chapter
225, §9	1196, §6
278	1193, §4
316, §7(2)	1196, §6
316, §7(6)	1196, §5
316, §8(1a,f,g,h)	1196, §6

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1988 REGULAR SESSION

Chapter	Acts Chapter
1271	1196, §3
1271, §6(1a-h)	1196, §6
1271, §14	1196, §4

ACTS OF THE SEVENTY-SECOND GENERAL ASSEMBLY, 1987 REGULAR SESSION

Chapter	Acts Chapter
234, §304(2)	1196, §4

ACTS OF THE SEVENTY-FIRST GENERAL ASSEMBLY, 1986 REGULAR SESSION

Chapter	Acts Chapter
1246, §402	1196, §6

ACTS OF THE SIXTY-SEVENTH GENERAL ASSEMBLY, 1978 REGULAR SESSION

Chapter	Acts Chapter
1108, §7	1198, §19

IOWA CODES AND CODE SUPPLEMENTS REFERRED TO IN ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION

Code		Section	Acts Chapter
1987		442.2(2)	1181, §12
1987	S	256.11(9a,b)	1091, §14
1987	S	256.17	1091, §14
1989		278.1(7)	1029, §5
1993		97A.3(3)	1183, §96
1993		97B.53(3,7)	1183, §45
1993		97B.53(6)	1183, §45
1993		225C.10(1)	1186, §19
1993		602.9204	1183, §90
1993	S	97B.41(12)	1183, §20
1993	S	97B.49[16d(6)]	1183, §92
1993	S	97B.66	1183, §51
1993	S	97B.72	1183, §53
1993	S	97B.72A(1)	1183, §54
1993	S	97B.73A	1183, §57
1993	S	97B.74	1183, §58
1993	S	99D.17	1107, §32
1993	S	99E.10(1)	1107, §32
1993	S	99F.4(2)	1107, §32
1993	S	192.111	1107, §32
1993	S	192A.30	1107, §32
1993	S	198.9	1107, §32
1993	S	200.9	1107, §32
1993	S	206.12	1107, §32
1993	S	312.2(13,15)	1107, §32
1993	S	321.52	1107, §32
1993	S	324A.6	1107, §32
1993	S	327H.18	1107, §32
1993	S	327I.23	1107, §32
1993	S	328.36	1107, §32
1993	S	452A.79	1107, §32
1993	S	461A.79	1107, §32
1993	S	473.11	1107, §32
1993	S	476.10	1107, §32
1993	S	524.207	1107, §32
1993	S	533.67	1107, §32
1993	S	546.10	1107, §32

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO – Continued

ACTS OF CONGRESS AND UNITED STATES CODE REFERRED TO – Continued

CODE OF FEDERAL REGULATIONS REFERRED TO

RULES OF CIVIL PROCEDURE REPORTED BY IOWA SUPREME COURT

Rule	Acts Chapter
82(d)	1203, Exh. "A"
126(d)	1204, Exh. "A"
152(b)	1203, Exh. "B"
175	1204, Exh. "B"
181.4	1203, Exh. "C"; 1205
318	1206, Exh. "A"

RULES OF CIVIL PROCEDURE REFERRED TO

Rule	Acts Chapter
82	1101, §3,5,6; 1171, §19

RULES OF CRIMINAL PROCEDURE REFERRED TO

Rule	Acts Chapter
7	1093, §4

RULES OF APPELLATE PROCEDURE REPORTED BY IOWA SUPREME COURT

Rule	Acts Chapter
2(a)	1207, Exh. "A"; 1208

RULES ON THE QUALIFICATIONS AND COMPENSATION OF INTERPRETERS FOR DEAF OR HARD-OF-HEARING PERSONS

Rule	Acts Chapter
1	1209, Exh. "A"; 1210, Exh. "A"; 1211, Exh. "A"
2	1209, Exh. "A"; 1210, Exh. "A"
3	1209, Exh. "A"; 1210, Exh. "A"

CONSTITUTION OF THE STATE OF IOWA REFERRED TO

Article	Acts Chapter
I, §8	1103, §10,16

VETOED BILL

Senate File 2322

ITEM VETOES

IOWA ADMINISTRATIVE CODE AND BULLETIN REFERRED TO IN ACTS OF THE SEVENTY-FIFTH GENERAL ASSEMBLY, 1994 REGULAR SESSION

ACTS CONTAINING STATE MANDATES

Ch 1152 (SF 2277) — School social studies requirements
Ch 1163 (HF 2430) — MH/MR/DD
Ch 1169 (SF 2223) — Voter registration
Ch 1179 (HF 2366) — Reapportionment
Ch 1183 (HF 2418) — Retirement systems

INDEX

1994 REGULAR SESSION

References are to chapters and sections of the Acts. For references to statutes by popular name, see POPULAR NAMES heading in this index.

NOTES